

The
Civil Government
OF
Wisconsin
—
WILGUS

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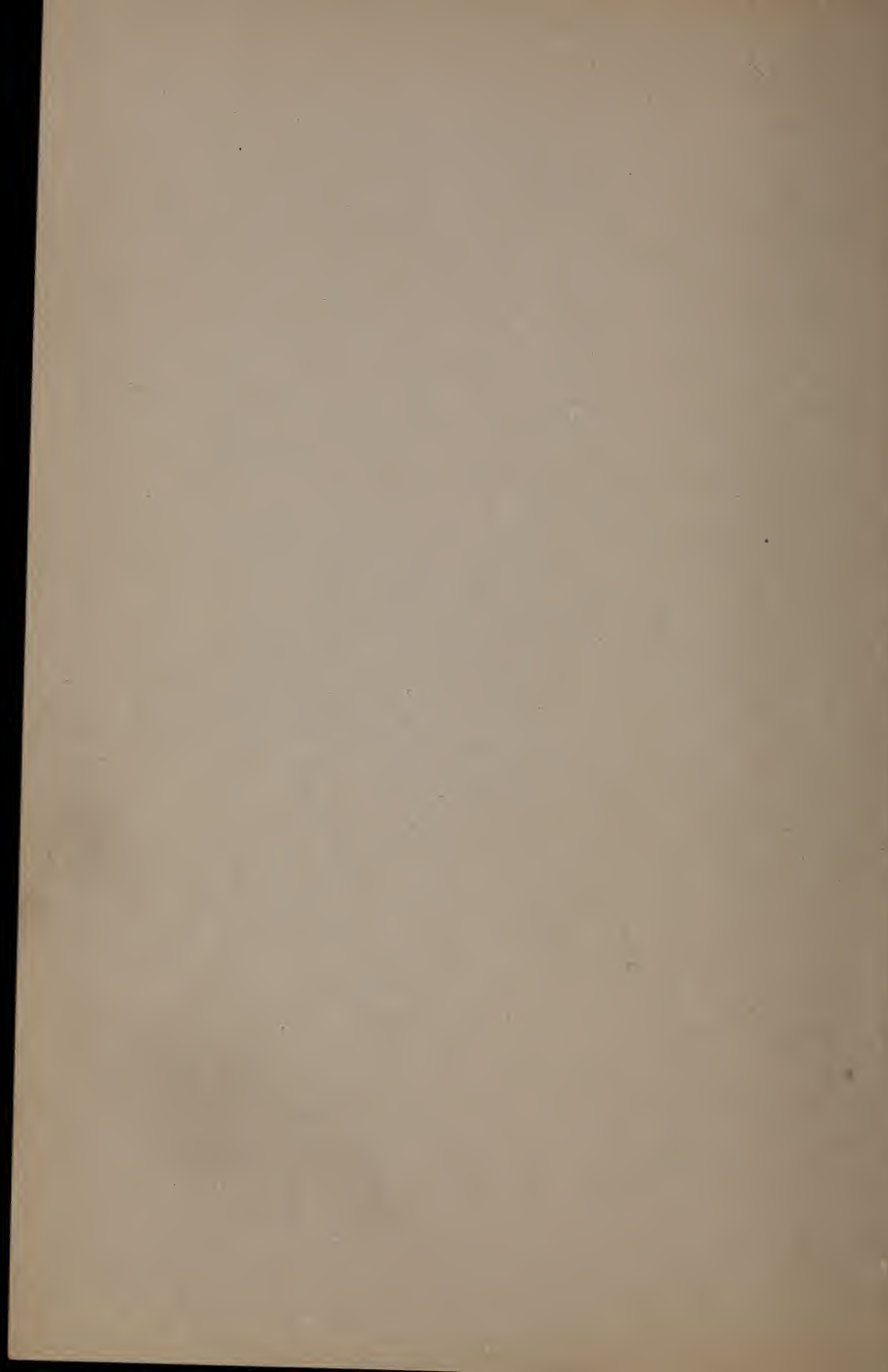
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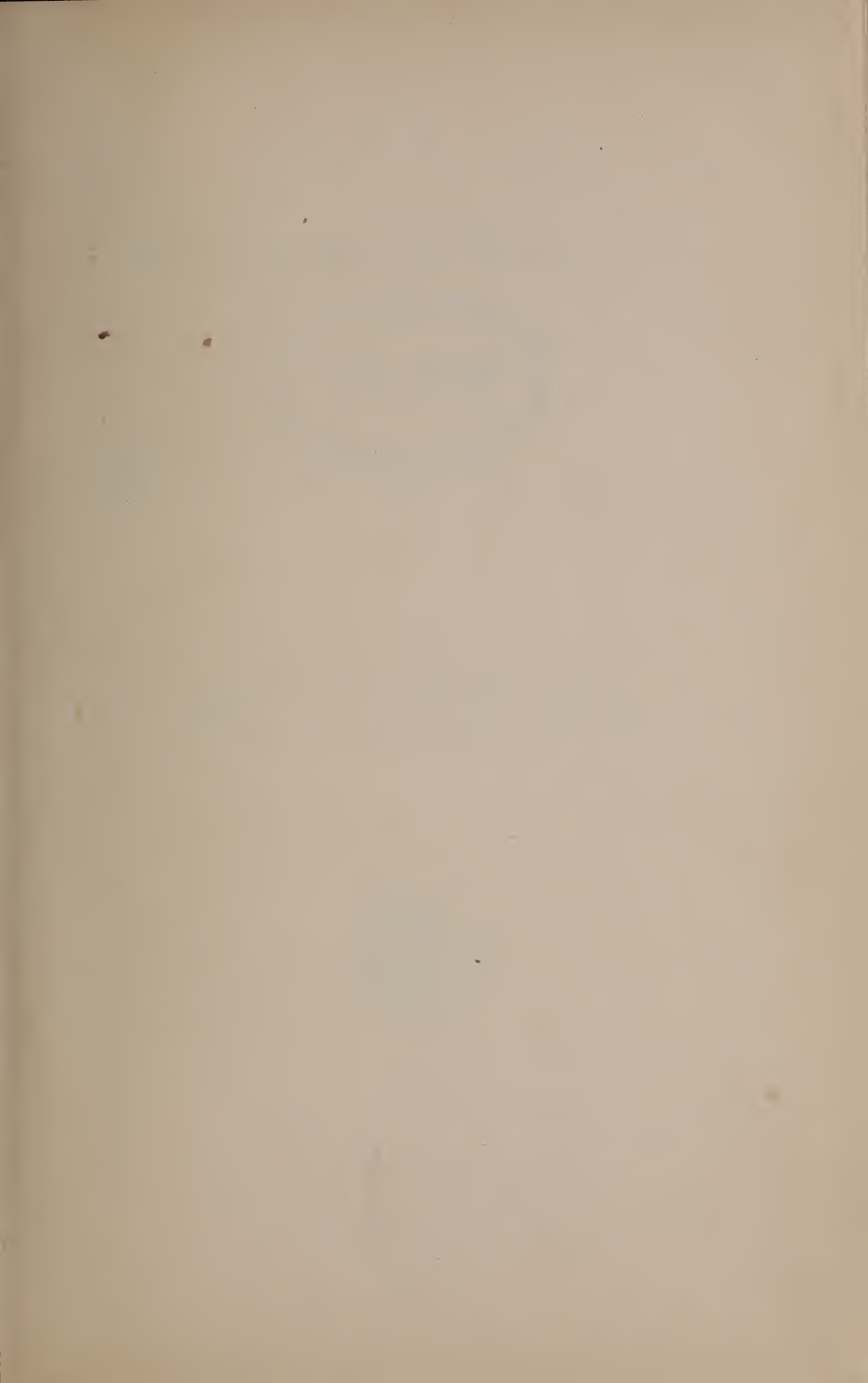
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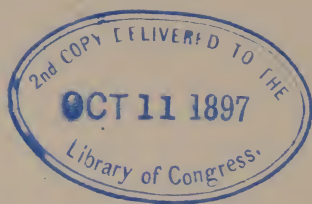
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UNITED STATES OF AMERICA.









THE
GOVERNMENT OF THE PEOPLE
OF THE STATE OF
WISCONSIN

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IN preparing this book, it was not the intention of the author to make simply an elementary treatise on the subject; nor was it his intention to make a technical and semi-legal disquisition on the institutions of government. He thought, however, that there was the opportunity, and the great necessity, for a description of the government of the State, county, town, village and city in a manner adapted to the wants of the youth of the State, so as to supply them with a practical knowledge of the institutions under which they live as a preparation for intelligent citizenship. How well the author may have succeeded, he leaves to the judgment of teachers.

It has not been possible to indicate all the variations in local government throughout the State, due to special or local legislation; but the common and essential features have been described, and it is left to teachers to ascertain the peculiarities in their particular localities.

It is suggested to teachers that, wherever possible, they make the descriptions given appear as living realities to their pupils by concrete illustrations and examples, and by giving the personal names of the officers whose powers and duties are studied.

If this little work shall succeed in conveying to the youth of Wisconsin a practical knowledge of the government round about them, of their rights and duties and privileges as citizens, and of the deep meaning of the institutions under which they live, and shall also lead them to appreciate the liberties they inherit, and inculcate a deep and abiding love for good and pure government, the author will feel that he has not labored in vain.

The author desires to express his thanks to Dr. Duncan McGregor, Prof. of Pedagogy, Platteville State Normal School, to Hon. Henry Casson, Secretary of State, to Hon. M. P. Rindlaub, Editor of the *Grant County Witness*, to Mr. A. W. Hastings, clerk of the town of Platteville, and to all others who have furnished information or assistance in the preparation of the work.

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WHAT constitutes a state?
Not high-raised battlement or labored mound,
Thick wall or moated gate;
Not cities proud with spires and turrets crowned;
Not bays and broad-armed ports,
Where, laughing at the storm, rich navies ride;
Not starred and spangled courts,
Where low-browed baseness wafts perfume to pride.
No :—men, high-minded men,
With powers as far above dull brutes endued
In forest, brake or den,
As beasts excel cold rocks and brambles rude—
Men who their duties know,
But know their rights, and, knowing, dare maintain,
Prevent the long-aimed blow,
And crush the tyrant, while they rend the chain;
These constitute a state;
And sovereign law, that state's collected will,
O'er thrones and globes elate,
Sits empress, crowning good, repressing ill.

—*From the Greek.*



"A disposition to preserve and an ability to improve, taken together, would be my standard of a statesman."

—EDMUND BURKE.



"We join ourselves to no party that does not carry the flag and keep step to the music of the Union."

—RUFUS CHOATE.



“OLD ABE.”

(THE WAR-EAGLE OF THE EIGHTH REGIMENT OF WISCONSIN VOLUNTEERS.)



Old Abe was born in 1861, and went into battle when but a few months old. His accustomed place was a perch on the flag-staff of the regiment. He participated in thirty-five skirmishes and engagements. At the close of the war he was kept at the State Capitol at the expense of the State. He visited the Centennial Exposition of 1876, and was always in demand at the soldiers' reunions. He died March 26, 1881. His body is preserved in a glass case in the rotunda of the Capitol.

“I'd rather capture Old Abe than a whole brigade.”—GENERAL STERLING PRICE, of the Confederate Army.

THE CIVIL GOVERNMENT OF WISCONSIN.

CHAPTER I.

OUR GOVERNMENTAL INSTITUTIONS.

1. **The Government of the United States.**—All of the territory belonging to the United States, stretching from the Atlantic to the Pacific, and from the Great Lakes to the Gulf of Mexico, including also Alaska and a few islands, is under one general government whose powers are set forth and defined by the United States Constitution. The President of the United States is the head of this government; and, with the members of his cabinet, executes the laws that are made by Congress, which is composed of two branches—a House of Representatives, representing the people, and a Senate, representing the different States of the nation. In addition to these two departments—executive and legislative—there is a third department, the judicial, composed of various courts, whose duty it is to interpret the laws. All persons living within the territorial limits of the United States are under the jurisdiction of this general government and must obey its laws and officers.

2. **The Government of the States.**—Our nation is made up of forty-five States and five territories, which

have been established at different times since 1776, when our forefathers declared themselves free from Great Britain. By that act—the Declaration of Independence—the thirteen colonies became States. At the close of the Revolutionary war our western boundary was the Mississippi River, and there was a large area of land not comprised within the boundaries of any of the thirteen States, which Congress from time to time formed into States and admitted into the Union. And as our territory has constantly increased from 1783 until the present time, Congress has pursued the same policy of cutting it up into States and admitting them into the Union, until to-day only Oklahoma, the Indian Territory, Arizona, New Mexico and Alaska remain as territories.¹

In addition to the general government of the United States, each State and territory has a government of its own. Congress creates the territory out of the public land and gives it a government. When the population of the territory becomes sufficiently large and Congress sees fit to admit the territory into the Union as a State, the people of the territory are authorized to form and adopt a State constitution, subject to the approval of Congress, to see whether it conforms to the United States Constitution. When a territory has thus been formed into a State and its people have been permitted to form a State constitution, they govern themselves, not independently of the United States government, but in conformity with it and with their own laws and State constitution.

Each State, therefore, has a State constitution, and these are essentially alike but not the same; hence the governments of the States, established in accordance with their constitutions, are essentially alike but not the same. In

¹ The territories are of two kinds—organized and unorganized. Alaska and the Indian Territory are unorganized; the others are organized and have a regularly constituted territorial government.

all of the States the governor is the head of the government, and, with certain other administrative officers, executes the laws made by the State legislature, which is composed of two houses. In addition to the executive and the legislative departments, there is in all the States a judicial department, composed of courts of different grades, whose business it is to administer justice and to interpret the laws. All persons living within the State are under the jurisdiction of the State government, and must obey its laws; but they are also under the general government of the United States and must obey its laws. If the State should at any time make laws in conflict with the United States laws, requiring its citizens to do something forbidden by the United States government, the courts of the United States would decide the State laws to be unconstitutional—that is, null and void, and therefore not to be obeyed by the citizens of the State.¹

3. Local Government in the States.—(a) *The County.* As the nation is divided into States, so each State is divided into counties. The number of counties in each State is not the same, but varies from three in Delaware to two hundred and forty-six in Texas. Naturally also the size of the counties is not the same. Counties in the Eastern States are, as a rule, smaller than those in the Central and Western States, and also more irregular in shape, which is due to historical and natural reasons. The constitution of a State usually fixes a limit as to the size of the county, and the legislature in laying out counties within the State is governed by this limit. In Wisconsin the limit is 900 square miles, and at present (1897) the number of counties is seventy. These counties have been established at various times as population has increased. Each county within the State has its own officers and government, as provided by the State legislature, in

¹ See § 19.

accordance with the State constitution, and this county government is as nearly uniform as possible throughout the State. County officers attend to the local affairs of their county, and administer the laws of the State that pertain to the county.

(b) *The Town*, or as it is frequently called, the *Township*.—Not only are States divided into counties, but these counties are subdivided into towns. As to the size and number of towns there is no more uniformity than in the matter of counties. The seventy counties of Wisconsin are divided into about one thousand and fifty towns, which makes an average of fifteen to a county; but some counties have only three and four towns, while others have thirty-two and thirty-six. While the legislature divides the State into counties, it does not as a rule divide the counties into towns directly; but it prescribes the manner in which towns are to be laid out and established by certain county officers. Each town has its own officers and government as prescribed by the State laws, and this government is uniform, not only for the towns within a county, but throughout the State. Town officers attend to the local affairs of the town, and they also administer the county regulations and the State laws that pertain to the town.

Each town is independent of every other town in the management of its own local affairs, but all the towns within a county are subject to the same county government. Counties and towns are convenient institutions for the administration of the general laws of the State, and their work is largely administrative, though historically considered, they stand for one of the most important bulwarks of human liberty—the principle of local self-government.

(c) *Villages and Cities*.—For reasons which are apparent, it is not only convenient, but often necessary, for a large number of the people to live closer together than on farms, and to congregate in certain localities favorable to their

interests, thus forming hamlets, villages and cities. Whenever people have collected together in this way, their interests may be so great, and their needs so different, that they require a local government of their own, in addition to, and perhaps separate from, the government of the town and county in which they are situated.¹

The laws of the State usually specify the population required by a locality before it can be organized into a village or a city with a government of its own; indicate the manner in which organization shall be made; and determine also the form of its government and the powers it shall exercise. Different States manage these matters in different ways, but usually there are only two ways: (1) The State may pass a general law dividing cities and villages into classes and grades according to population and specifying a particular form of government and particular officers for each grade and class; or (2), the State may pass special acts, *i. e.* give each village and each city at the time it is formed, a charter designating its officers and powers of government. This latter method makes it necessary for the legislature to pass a separate act whenever a new city or village is to be formed, thus leading to a great amount of legislation, and also opening the door to special legislation or favoritism, so that the former method is to-day the one generally practiced.

¹ It is not necessary to define accurately the distinction between hamlets, villages and cities, but we should be reminded that in our conversation and daily speech we are frequently inaccurate, from a legal point of view, in speaking of these indiscriminately. We often speak of a certain collection of houses and the people living there, as a village, when in reality it has not the population requisite for a village nor has it the government of one. Similarly, we often speak of a large village as a city, when in fact its population is not sufficient to constitute it a city and it has not the government of a city. Thus it will be seen that the essential distinction between hamlets, villages and cities, in law, is dependent upon two things—(1) population, and (2) government; but in common speech we frequently confuse the terms.

In Wisconsin, general laws were passed for the government of villages as early as 1849, but incorporation by special acts or charters was not forbidden until the adoption of a constitutional amendment in 1871, after which the legislature passed new general laws providing for their incorporation and government. Prior to 1889, cities were governed by special charter, but during this year the legislature passed a general law for their government, dividing them into classes according to population, and indicating the powers and officers that each class is to have. In 1895, an amendment was made changing the limits of population for the classes. Cities and villages that have been incorporated since 1889 and 1871 respectively, have been organized under these general laws, and though provision was made by which those organized under special charters prior to these dates might change to the government under the general law, few have seen fit to do so; therefore to-day there are in Wisconsin both systems of municipal government—special charter and general law.¹

(d) *Other Small Divisions.*—Counties, towns, villages and cities are the chief divisions of the State for administrative purposes and local self-government; but for the better management of schools and roads we find smaller divisions known as school districts and road districts.

Certain town officers designated in the laws of the State are given the power to divide their towns into school districts, and the people in each district are given the power to elect certain officers whose duties are to care for the schools of the district.

Road districts are also established by designated town officers in the different towns, and the people of each district are given the power to choose officers whose duties are to care for the roads, bridges, etc. of their districts.

These smaller divisions are designed especially for the

¹ See also §§ 33 and 39.

better enforcement and administration of the laws of the State pertaining to schools and roads, and they are not so truly governmental in character as are the other divisions—towns, counties, villages and cities—which serve the double purpose of local self-government and the administration of State laws.

4. *Résumé*.—A general survey of the governmental institutions that characterize our system of government has now been completed. Broadly speaking, there are two great agencies of government—the United States and the State. We also find within the State three chief agencies for local government and the administration of State laws—the county, the town, and the municipal corporation (village or city); and we may add to these for special and limited purposes the school district and the road district. Local government is not uniform, nor are the State governments the same throughout the United States, but the United States government is uniform and the same for all the territory of the United States, and co-extensive with its limits.



HENRY DODGE, FIRST GOVERNOR OF THE TERRITORY OF WISCONSIN.

CHAPTER II.

HISTORICAL SKETCH OF THE GROWTH, DEVELOPMENT AND GOVERNMENT OF WISCONSIN, 1634-1848.



5. **Discovery and Exploration.**—Wisconsin is a part of the territory that was discovered, explored and taken possession of by France under the name of New France, in the 17th century. When Samuel Champlain was governor at Quebec, he sent Jean Nicolet in 1634 to explore this western region. Coming by way of the Lakes he landed just below the mouth of the Fox River on the shore of Green Bay. "Clothed in silken robes he advanced into a village of the Winnebagoes, discharging pistols held in each hand. He was received with welcome. A great feast was then held, 120 beavers being eaten." He went up the Fox River nearly to the present city of Berlin, whence

he returned to Quebec by way of what is to-day Illinois and Michigan. During the next thirty-five years, other French explorers and missionaries, especially Radisson, Groseilliers, and Allouez, visited these regions and also the upper Mississippi in Minnesota, and the shore of Lake Superior, learning of the copper mines there, and in 1671 the whole country was taken possession of in the name of the French king by the Sieur Saint Lusson.¹ Then followed the great explorations of Joliet and Marquette (1673-74), La Salle (1679), Hennepin (1680), and Le Sueur and Perrot, extending to 1700, in which many trading posts were established and the lead mines around what is to-day Dubuque, Galena and Potosi were discovered and worked—about thirty experienced miners being brought from France in 1699 by Perrot.

It was apparent to the Indians that the white men were now coming in earnest, so that for the next thirty years, wars and troubles with them were frequent. Tribute was demanded from the voyagers and traders, and treachery and deceit increased the difficulties. The Sacs and Outagamies or Foxes were especially troublesome, but they were finally overcome in 1730. The Indians were then quiet for some time and trading posts were established at several points. In 1754 when the last French and Indian war broke out, an alliance between the French and the Wisconsin Indians was made for the purpose of attacking the English colonies in the western part of Pennsylvania.

¹ The ceremony was formal and imposing. It was on the morning of June 14th, at Sault Ste. Marie, that St. Lusson and several priests, chanting hymns of thanksgiving, amidst a throng of curious Indians, ascended a hill and there erected a large wooden cross and also a cedar post bearing a metal plate, engraved with the royal arms of France. Then St. Lusson, with sword in one hand and raising a piece of sod with the other, formally proclaimed the ownership of the country in the name of Louis XIV., King of France; whereupon the Frenchmen fired their guns and shouted lustily "Vive le Roi." A few speeches completed the ceremony.—PARKMAN'S *La Salle*, pp. 42, 43.

These Indians were foremost in the attack on Braddock, and were in the thick of the fight between Montcalm and Wolfe on the Plains of Abraham. In 1760 the English seized the French dominions in the West, and by the treaty of Paris, 1763, which closed the French and Indian war, the territory of New France passed into the possession of the English.

6. Settlement and Growth.—The first permanent white settlement was made at Green Bay, in 1766, by Charles de Langlade and others. Within the next thirty years permanent settlements were also made at Prairie du Chien and Milwaukee. These grew slowly. In 1804 the Indian titles to lands in southern Wisconsin were secured by treaty; and by 1820 many trading posts, that eventually became permanent settlements, were established throughout this



BLACK HAWK.

region by the American Fur Company, of which John Jacob Astor was the head. The fur trade, which was a lucrative business, and the rich lead mines began to attract notice about 1826 or 1827, and were the means of bringing many adventurers into this region. But it was not until after the Black Hawk war in 1832, which drove the Indians from this country,

that settlement began in real earnest. In 1830 the entire population was only 3245, and there were but two counties. Six years later, when Wisconsin was organized as a Territory, the population had increased to 11,683, and there were four counties. By 1840 the population had increased to 30,945, and twenty-one counties had been organized. The most rapid growth, however, came within the next

fifteen years, when there was a great influx of foreign population, and the railroad was making travel to the west comparatively easy. In 1855, the population was 552,109, and forty-nine counties had been established. At present (1897) the population is about 2,000,000.¹

7. Evolution of Government.—When Wisconsin was a part of the French dominions, it was under the jurisdiction of a governor-general who had charge of the possessions of France in the New World, with headquarters usually at Quebec. The control that was exercised was nominal rather than real, and ordinarily, the individual inhabitants felt no governing hand at all. When the English came into possession of these regions in 1763, though allegiance was changed from France to England, the condition of the people, so far as government was concerned, was at first practically the same. But in 1774 the English provided for the establishment of civil government over this region and the country north of the Ohio River and eastward as far as the Alleghenies, by the Quebec act. This act practically annexed the country to Canada,

¹ It may be interesting to note that the first Protestant sermon ever preached within the limits of Wisconsin was by the Rev. Jedidiah Morse, the father of the inventor of the telegraph, on July 9, 1820, at Green Bay.

In 1820 the first steamboat ascended the Mississippi. In 1826 the first steamboat appeared on Lake Michigan, and in 1835 the first steamboat landed at Milwaukee.

In 1833 the first newspaper was started—"The Green Bay Intelligencer;" three years later the Milwaukee "Advertiser" and the Belmont "Gazette" appeared.

In 1847 the first railroad was chartered (Milwaukee and Waukesha R. R. Co.). In 1849 construction on the road began and two years later the first train was run.

In 1838 Congress appropriated land to endow the University of the Territory of Wisconsin. In 1848 the university was organized; and also the free school system established by law. In 1866 the normal school system was organized.

curtailed the rights of the colonies, and was one of the causes of the Revolutionary war. As a result of this war the United States came into nominal possession of this region by the treaty with England in 1783, but it was not till 1796 that the British gave up the western posts and the United States gained *actual* possession of the country.

8. The Ordinance of 1787.—In the meantime, however, the United States had established a government for the country north of the Ohio and east of the Mississippi by organizing the Northwest Territory and enacting the Ordinance of 1787. This was one of the last as well as one of the greatest acts of the Congress of the Confederation, and deserves to stand alongside of the Declaration of Independence that preceded it and of the Constitution that followed it. Chief-Justice Chase of the Supreme Court of the United States said of it: "Never, probably, in the history of the world did a measure of legislation so accurately fulfil, and yet so mightily exceed, the anticipations of the legislators. The Ordinance has been well described as a pillar of cloud by day and of fire by night in the settlement of the Northwestern States. When the settlers went into the wilderness, they found the law already there." This Ordinance gave shape to the territorial system of government that the United States afterwards followed. It laid the foundations for a broad and abiding system of public schools, and it forever prohibited within the Territory the establishment of slavery, which was already becoming detrimental to the Southern States, and rapidly developing into a woful bane for the nation.

9. Form of Government.—The region comprised within the jurisdiction of the Ordinance was about two-thirds the size of the thirteen original States. There was no established seat of government, and its officers resided first at Marietta, Ohio, afterwards at Cincinnati, Ohio, and later at Vincennes, Indiana. The government was in the hands of a governor and three judges, constituting both a legis-

lative council and a court. These officers, together with a secretary, were appointed by Congress.¹ Inferior officers were appointed by the governor. Arthur St. Clair was the first governor. The governor and judges, as a legislative council, might not make new laws, but could select from the other States such acts as were suitable, and put them into force, subject, however, to the approval of Congress. When the population had reached 5000, the people were to be allowed to have a house of representatives, elected by themselves. The house of representatives, together with a governor appointed by Congress, and a legislative council selected by Congress from nominations made by the house of representatives, were to constitute the territorial legislature to govern the Territory. As population increased and settlement extended, the Territory was to be cut up into not less than three nor more than five States—each State to be admitted into the Union when it had reached a population of 60,000 free inhabitants.

10. Territorial Divisions.—In accordance with these provisions, the first territorial division was made in 1800, when a line was drawn from the Ohio river from a point opposite the mouth of the Kentucky river to Fort Recovery (situated in what is to-day Mercer county, Ohio), and thence north to the boundary line between the United States and Canada. All west of this line, in which Wisconsin was included, became the Territory of Indiana with William Henry Harrison as governor. East of the line, in 1802, Ohio was admitted as a State, and in 1805 Michigan Territory was set off. In 1809 Illinois Territory, in which was included Wisconsin, was created out of what was Indiana Territory, and in 1816, Indiana was admitted as a State. Two years later, when Illinois was admitted as a State, Wisconsin was attached to Michigan Territory as a

¹ Changed by act of first session of first Congress to appointment by the President and confirmation by the Senate, in conformity with the newly adopted Constitution.

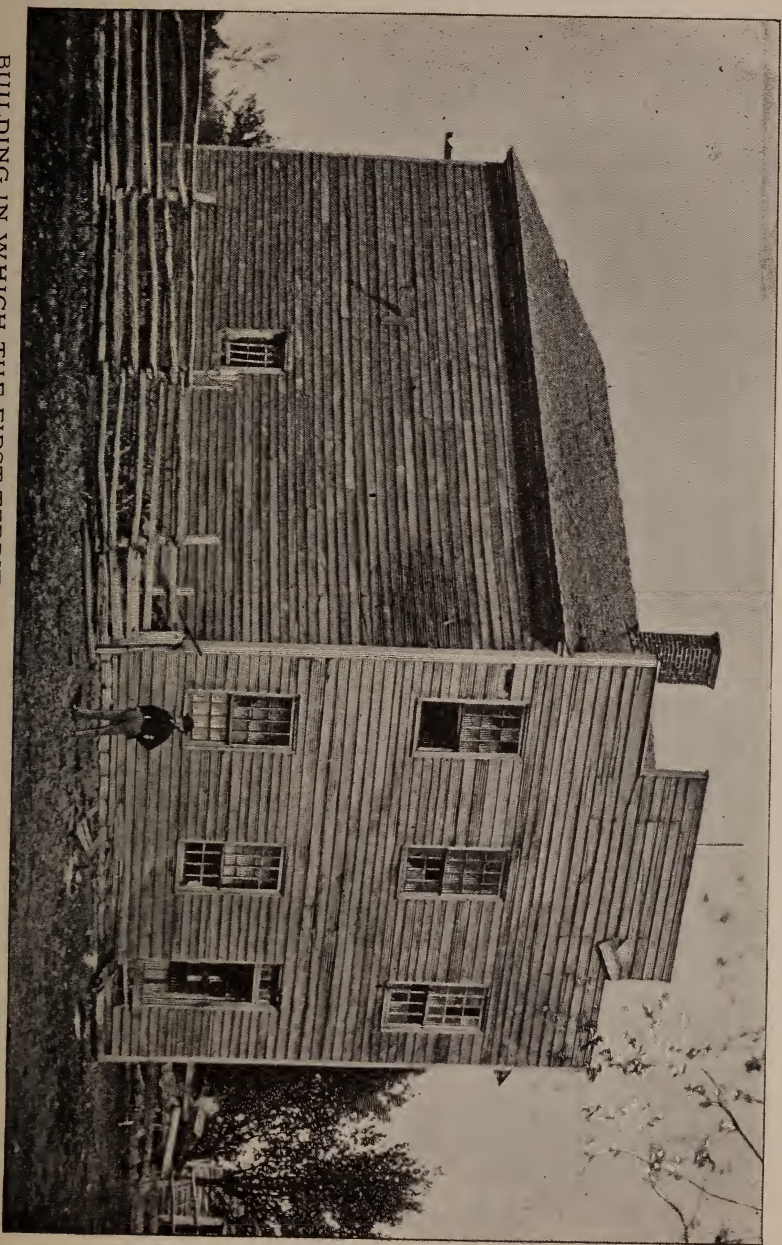
county, remaining as such till 1836, when it was organized as a separate territory.¹

11. Wisconsin a Territory.—The act of Congress establishing territorial government in Wisconsin was passed April 20, 1836. The government provided for was vested in a governor, a legislative assembly, courts of justice, and a few minor officers. The governor, judges, secretary, attorney and marshal were appointed by the President of the United States with the concurrence of the Senate. The Legislative Assembly was composed of a Council of thirteen and a House of Representatives of twenty-six, chosen by the people. Acts passed by the Legislative Assembly were to be approved by the governor and transmitted to Congress for its approval also. The legislature was to meet annually and not to continue in session longer than seventy-five days. It was to meet, at first, in a place designated by the governor, but at the first session, or as soon thereafter as practicable, it was to locate and establish the seat of government or capital. Qualifications for voters were prescribed, but the legislature, when formed, might change these qualifications, except that none but citizens of the United States were to be allowed to vote. A delegate to the national House of Representatives was to be elected by the voters of the Territory. The act also specified the powers and duties of the various officers.

In accordance with these provisions, President Jackson

¹ In 1834 its boundaries had been extended so as to include what is to-day Iowa, Minnesota, and a part of Dakota; but in 1838, when Congress created the Territory of Iowa, Wisconsin was reduced "to her present limits, except that she still held, as her western boundary, the Mississippi River to its source, and a line drawn due north therefrom to the international boundary." She remained in this condition till 1848, when Congress admitted her as a State, with her present limits, giving to Minnesota the region west and north-west of the St. Croix River.—R. G. THWAITES, *The Boundaries of Wisconsin* (*Wis. State Hist. Soc. Coll's*, vol. xi., pp. 455-460).

BUILDING IN WHICH THE FIRST TERRITORIAL LEGISLATURE MET, AT OLD BELMONT.



appointed Henry Dodge governor, April 30, 1836, and on July 4, the government was inaugurated by the governor, judges and other officers that had been appointed by President Jackson, taking the oath of office at Mineral Point. On October 25, the first Legislative Assembly convened at Old Belmont. It adjourned December 9. Its chief business was to provide the governmental machinery required, to enact such laws as were needed, and to locate the capital. The contest over this question was exciting, for several towns urged their claims. The matter was finally settled December 3, by locating the capital at Madison, which was at this time but a clearing in the woods. Soon, however, the Capitol building of stone was in process of erection, and in the immediate neighborhood were a few rude log houses for the accommodation of the builders.

12. Formation of the Constitution and Admission as a State.—Wisconsin continued as a Territory until 1848, when it was admitted as a State. In 1846 the people voted in favor of a State government, Congress passed an enabling act authorizing its formation, and the people elected delegates to a constitutional convention which met at Madison, October 5, continuing in session until December 16. The Constitution that was framed by this convention, though approved by Congress, was rejected by a vote of the people in April, 1847, on account of some objectionable features pertaining to banks. On the 15th day of December, 1847, a second constitutional convention was held at Madison. This convention remained in session until the 1st of February, 1848, and the Constitution which it framed was adopted by a vote of the people in the following March. On May 29, 1848, Congress passed an act admitting Wisconsin as a State. Though amendments have been made at different times, the original Constitution still stands as the basis of the government.

Wisconsin entered the Union with the motto "Forward," and she has ever been true to it.

CHAPTER III.

CONSTITUTIONS.—RELATIONS BETWEEN THE STATE AND THE NATION.



13. Progress of Liberty.—The American people are especially fortunate in the fact that their government is one of constitutions and of laws made in accordance with these constitutions. This results from the bitter experience of our ancestors for centuries, with irresponsible, haughty and tyrannical kings and rulers. Nothing shows more clearly the progress of human liberty than the evolution of government from its earliest form, that of a monarchy or rule by one, through an oligarchy or rule by a few, to a democracy or rule by the many. For centuries the people were virtually enslaved by their rulers and there was very little freedom in the world—indeed, none but the rulers and a favored few were possessed of liberty. But in course of time there came to be serious doubts about the sacred character and privileges of the ruling classes—people began to see that their kings were human and only ordinary people like themselves; the printing-press was invented, and men's thoughts could now be recorded and spread abroad with more ease, certainty and effect than before—stimulating and encouraging study and communication with one another, making acquaintances and friends of people widely separated, and paving the way for harmonious thought and action on the part of those whose interests were the same. The effect of the invention of printing on human liberty can hardly be overestimated.

14. Origin and Purpose of Constitutions.—The expe-

rience of the world shows clearly that people possessed of power tend to increase it if possible; and where there is a will there is also usually a way. In fact, at the opening of the thirteenth century the ruling classes of every country in Europe had so enhanced their powers and privileges that the people had very few of the rights of personal liberty, personal security, private property and religious freedom possessed by us to-day.¹ These are now so common that we are apt to think they were always exercised by the people, and to forget the fierce, bitter and bloody struggle that secured them for us. And in this long contest, which is not yet ended, it has been the high privilege and destiny of the Anglo-Saxon or English-speaking race to take the lead, and stimulate others to the same work, until to-day in almost all of the civilized countries of the world the people are possessed of their rights and freedom in a very great degree. The details of this great struggle cannot be recorded here; but we need to note that it has been an attempt on the part of the people to win back rights once usurped and to guard against their loss in the future, either by drawing up compacts between themselves and their rulers, and forcing their rulers to sign and obey these compacts, or by overturning monarchical and aristocratic governments and establishing in their place democracies or republics founded upon written constitutions.

15. Constitutions in America.—Such is the origin and purpose of constitutions in general; and when the Amer-

¹ The right of personal security means the right to enjoy life, body, health and reputation.

The right of personal liberty means the right to come and go without restraint, and includes also freedom of speech and of the press.

The right of private property means the right to acquire, use, and dispose of one's property—including time and labor.

The right of religious liberty means the right to have any belief or unbelief one chooses.

ican colonies were planted, it was at a time when the people of Europe, especially the English, were triumphing over their rulers, and therefore in an era of constitution-making. Only a few of the colonies, however, were securely based upon charters, yet in many there was some sort of a compact, agreement or grant, given by the king or ruler, or made by the colonists themselves on their own authority. There was, however, a general lack of security in regard to rights, and it was this that caused so much annoyance between the colonists and their rulers, leading eventually to open rupture and independence. Then a new nation was born and the rights of the people were securely established by a National Constitution as well as by individual State constitutions, whose specific objects, expressed clearly in the respective preambles, are full of the deepest meaning and significance.

16. Definition of Constitutions.—A constitution may be defined as the definite expression of the will of the people by which they control the government. It is the fundamental law emanating from the people in their sovereign capacity, to be obeyed by all alike—those who are governed as well as those who govern. Constitutions are of two kinds, written and unwritten, the difference being that a written constitution is a formal document drawn up at one time by a convention of the people or their representatives assembled for that purpose; while an unwritten constitution is not so made, but consists of various documents—usually legislative enactments issued by the representatives of the people in their legislative capacity, from time to time, as occasion demands—touching the organization of the government and its powers. All our constitutions are written; the Constitution of England is unwritten. As to the relative advantages of the two kinds of constitutions there is a difference of opinion; but written constitutions possess this advantage, that they can be changed only by the people; while unwritten constitu-

tions have the disadvantage that they can be changed by the government, and they may therefore cease to represent the will of the people. On the other hand, written constitutions are less elastic and flexible than are unwritten constitutions.

17. Contents of Constitutions.—An examination of our constitutions reveals the same general scope and design, and shows that certain provisions have been deemed essential by the people in framing them. Thus it will be found that our constitutions (1) state the purpose and object for which they are formed, in a preamble; (2) specify the rights of the people in a “bill” or “declaration of rights;” (3) establish a republican form of government and indicate the machinery for its operation, by grouping the functions of government into departments, with powers and duties clearly set forth; (4) specify the manner in which the government, *i. e.* the officers of the people, may be called to account for wrong-doing, by establishing a short term of office and frequent elections, and by making provision for removal from office through impeachment, etc.; (5) provide the way by which the people may express their will in changing the government, either through making amendments or establishing a new constitution—thus avoiding as far as possible the tendency to revolution and the evils that would come from violent and precipitate changes; and (6) designate those persons who may have a voice in the government and take part in its administration, by establishing certain qualifications for suffrage, and for holding office. Besides these essentials, there are, in the different constitutions, miscellaneous provisions of a local or temporary import, that will not admit of classification.¹

18. The Constitution of Wisconsin; Amendments.—

¹ All constitutions are not the same, and it is not to be understood that the particulars mentioned here are grouped separately or given in the order as stated, but that somewhere in the constitution provision is made concerning them.

An analysis of the Constitution of Wisconsin shows, besides the preamble, fourteen articles, as follows :

Art. I. Declaration of Rights.	Art. IX. Eminent Domain and
II. Boundaries.	Property of the State.
III. Suffrage.	X. Education.
IV. Legislative.	XI. Corporations.
V. Executive.	XII. Amendments.
VI. Administrative.	XIII. Miscellaneous Provis-
VII. Judiciary.	ions.
VIII. Finance.	XIV. Schedule.

To this, amendments have been made at different times touching the following matters :

Compensation of members of the legislature, Art. IV. Sect. 21. (1867 ; 1881.)

Salary of governor and lieutenant-governor, Art. V. Sects. 5 and 9. (1869.)

Rights of accused, Art. I. Sect. 8. (1870.)

Prohibition of special legislation in certain cases, Art. IV. Sects. 31 and 32 added. (1871 ; 1892.)

Restriction on municipal indebtedness, Art. XI. Sect. 3. (1874.)

Constitution of the supreme court, Art. VII. Sect. 4. (1877 ; 1889.)

Claims against the State, etc., Art. VIII. Sect. 2. (1877.)

Biennial sessions of the legislature, etc., Art. IV. Sects. 4, 5, 11 and 21. (1881.)

Residence and registration of voters, Art. III. Sect. 1. (1882.)

County officers, election, removal, etc., Art. VI. Sect. 4. (1882.)

Clerk of circuit court and of supreme court, Art. VII. Sect. 12. (1882.)

General elections, etc., Art. VII. Sect. 4. (1882.)

Many other amendments have been proposed but they have failed to secure either the vote of the next legislature or the vote of the people, as required by Art. XII. of the Constitution, which specifies the method of making amendments. Up to the present time (1897) no constitutional convention has been called to make amendments or to

change the Constitution; and should one be called, its action might or might not be final. It would not be final if the legislature, in its call for the convention, should require the changes made by the convention to be voted upon by the people; nor if the convention, by its own vote, should submit its work to the people for ratification. Otherwise the action of the convention would be final.

19. Relations between the State and the National Government.—The National government and the State governments, although distinct and having special spheres of action, “are in fact but different agents and trustees of the people, constituted with different powers and designated for different purposes”—the National government being formed for national purposes only and the State government for local purposes only. The powers which the National government may exercise are those which are expressly stated, or clearly implied, in the United States Constitution. These powers only are within the sphere of the National government; but within that sphere it is supreme and overrides any State constitution or law or act to the contrary. The people, however, have not delegated all the powers of government to the nation, and those which are not expressly stated or clearly implied in the United States Constitution as belonging to the National government, the people have reserved to themselves or have delegated to their State governments. These, too, have their own sphere of action, and within that sphere they are supreme. If, therefore, we wish to ascertain what powers the National government may exercise, we examine the United States Constitution, and this only, for it sets forth the powers of the National government. But if we wish to ascertain what powers the State governments may exercise, we must examine first, the United States Constitution to see whether it prohibits the State from exercising the power; and second, the State constitution, to see whether the people

have granted the power to, or withheld it from, their State government.

Both sets of constitutions have emanated from the people, and the people may change them; but the people of each State are not free to do entirely what they may please in this matter. For since the constitution of every State which has been admitted into the Union since 1789 required the approval of Congress, either directly or indirectly, before it could become operative; and since the United States Constitution, and the treaties and the laws of the United States made in pursuance of it, are the supreme law of the land, it follows that no State may, by any amendment or the establishment of a new constitution, so change its form of government as to conflict with the paramount authority of the United States. The whole is greater than a part, and any interpretation of our dual system of government which admits of the doctrine of nullification or of secession is vitally at variance with the existence of a close and effective union and subversive of the welfare of the people.



FIRST HOUSE IN MADISON, 1837.

CHAPTER IV.

LOCAL GOVERNMENT IN WISCONSIN.



20. Local Government in General.—The Constitution of the State makes general provision for local government, but leaves the special provisions to be made by the legislature from time to time as may be found necessary. Therefore, nearly all the regulations that apply to the establishment and government of villages, cities, towns and counties are statutory. Indeed the only constitutional provisions touching the organization of local government are the following: "It shall be the duty of the legislature, and they are hereby empowered, to provide for the organization of cities and incorporated villages, and to restrict their power of taxation," etc.¹ "The legislature is prohibited from enacting any special or private laws for granting corporate powers or privileges except to cities."² "The legislature shall establish but one system of town and county government, which shall be as nearly uniform as possible."³ The legislature therefore is practically given the utmost freedom in these particulars.

TOWN GOVERNMENT.

21. Town and Township.—In most of the States the civil divisions of the county are called townships; but in New England, Michigan, Wisconsin, and a few other States,

¹ *Art. XI. Sect. 3.*

² Amendment 1871, *Sect. 31* added to *Art. IV.*

³ *Art. IV. Sect. 23.*

they are called towns. Confusion arises in either case, because (1) the name township is also used to designate a tract of land six miles square, established by the United States government without reference to boundary lines of county or State, for the purpose of accurately describing, locating and transferring lands; and (2) the name town is popularly understood to mean a hamlet or a village. In their legal sense, however, in this State a township is simply a tract of land six miles square, and has nothing to do with the administration of government; while a town is a civil division of the county, established by the county board in accordance with the State laws for the express purpose of government. Each county, then, has its own towns. In area, size and boundary the towns may and usually do correspond to the townships, wherever conditions will admit of it, and they are therefore six miles square; but they need not so correspond, however, and in many cases do not, so that they are often quite irregular in shape and size.

22. The Government of the Town.—Town government in Wisconsin is quite similar to that in New York and New England, which is due to the fact that a large number of the early settlers who gave shape to the institutions of the State came from those sections of the country. As in New England, but not to quite the same degree, the principal organ of the town government is the “town meeting,” where all the voters of the town assemble to make rules and regulations concerning the needs of the town. The government of the town, in essence then, is that of a pure democracy. On the first Tuesday of April in each year occurs the annual town meeting for the election of officers and for the transaction of such business as may be needed. Provision is made also for holding special meetings when necessary. On the day of the annual meeting the election of officers for the ensuing year occurs, and the polls are opened between 9 and 10 A. M. and closed

at 5 P.M.¹ At any time between these limits the "meeting" for the transaction of other business may be held. The meeting is presided over by the chairman of the town board and is governed by the general rules of parliamentary law. If the chairman of the town board should not be present one of the supervisors acts as chairman; but if these should be absent the voters choose a chairman from among their number. At the opening of the town meeting the chairman states the business to be transacted and the order in which it shall be entertained. Motions are then made concerning the matters before the meeting, and discussions are indulged in as fully and freely as the people choose—every voter being entitled to express his opinion. Voting is done *viva voce*, and a majority decides all motions. The chairman decides all questions of order, and the clerk of the town acts as secretary of the "meeting" and keeps a record of its minutes and proceedings, as well as of the reports of the town officers, which must be made to the meeting.

23. Powers of the Town Meeting.—The voters assembled in annual town meeting have power and authority—(1) To levy taxes within the limits specified by the laws of the State, and to raise money for the purchase of property and cemeteries, for the erection of town buildings, the maintenance and repair of roads, bridges, etc., the support of the poor, and for paying the indebtedness and defraying all the expenses of the town. (2) To make all rules, police regulations, and by-laws that may be necessary to secure the peace, good order and safety of the people of the town and to protect their property, restraining and punishing disorderly conduct, drunkenness, etc., preventing stock from running at large and

¹ They are opened and closed by proclamation as follows: "Hear ye! Hear ye! Hear ye! The polls of this election are now opened (or closed)." The polls are closed during the "meeting."

impounding it when necessary. (3) To provide for the establishment of a town library. (4) To decide about the payment and collection of highway taxes—whether in money or labor. (5) To direct the institution and defense of all actions in which the town is an interested party, employing attorneys whenever necessary.

The laws of the State require that the voters be duly notified beforehand, not only of the officers to be elected at the town meeting, but also of the other matters that are to be attended to, so that they may act intelligently and with deliberation. Full proceedings of the meeting and all by-laws adopted are published for the benefit of the people of the town.

24. Town Officers.—The officers of the town are three supervisors, who constitute the town board, a clerk, a treasurer, one or more assessors as determined by the town board, four justices of the peace, one or more constables, not exceeding three, as determined by the meeting, an overseer of highways for each road district, and a librarian, when the town has a library. Town officers are elected at the annual town meeting by the voters of the town,¹ one of the supervisors being designated on the ballots as chairman of the board. No one can hold a town office who is not a qualified elector of the State, and all town officers must take an oath to support the State and the United States Constitutions. The term of office for all town officers is one year, except the justice of the peace, whose term is two years, and the overseer of highways, whose term is three years. Two of the justices are elected each year.²

25. Duties of the Town Officers.—The officers of the town enforce the rules and regulations adopted by the

¹ The overseer of highways is now appointed by the town board, instead of being elected by the voters.

² Town officers enter upon the discharge of their duties within ten days after election or appointment.

people in the town meeting, and perform such other duties as are required of them by the laws of the State. The general administrative power is vested in the town board, which has charge of all affairs not given to the other officers; they care for the town's property, draw orders upon the treasurer, have charge of all actions in which the town is a party, act as a board of audit, and as inspectors of election unless otherwise provided, may appoint fire-wardens outside of incorporated villages in the town, upon application, fill vacancies in most of the town offices whenever they occur, and form and alter school and road districts within the town.¹

(a) *The Clerk* keeps all records and proceedings of the meetings of the town and of the town board; transmits to the county clerk the names of the town officers, and to the

¹ When a school district is formed, the written order of the board, describing the boundaries of the district, is given to a "taxable inhabitant" therein, and directs him to notify the voters of the district to meet at the time specified for the purpose of organization and the election of officers. Thereafter regular meetings must be held each year on the first Monday in July (unless it is a legal holiday, when the meeting is held on the next day) at 7 P. M., unless a different hour was agreed upon at the last regular meeting. Special meetings may be called upon the written request of five legal voters. The district meeting may choose officers, designate a site for a school-house, vote taxes, within certain limitations, for various purposes, borrow money, fix the length of school term (but it shall not be less than six months), determine whether the teacher shall be male or female, make provision for defending or prosecuting suits, and authorize the school board to furnish free text-books, and also to admit pupils outside of the district and to fix a tuition fee for the same.

The officers of each district are a director, treasurer and clerk, whose terms are three years, but these are so arranged that one is chosen each year. These officers constitute the district board. Meetings are held whenever necessary. The board makes the rules and regulations for the government of the school, purchases maps, books, apparatus, flags, etc., hires the teacher, determines what text-books shall be used, visits the school, and advises and consults with the teacher in all matters pertaining to the welfare of the school.

clerk of the court the names of the constables and the justices of the peace; issues notices of elections and acts as clerk of elections; assists in taking the State census: files and preserves papers relative to chattel mortgages, cemetery deeds, etc.; has charge of the town library; posts notices of all town laws; and performs such other duties as are required by law.

(b) *The Treasurer* has charge of all the money belonging to the town; keeps an itemized account of all receipts and expenditures; collects the taxes, State, county and town, unless otherwise provided; pays out money only upon the warrant of the board, signed by the chairman and countersigned by the clerk; and performs such other duties as may be prescribed by law.

(c) *The Justice of the Peace* has concurrent jurisdiction and powers throughout the county with other justices of the peace. He may administer oaths and affirmations, take depositions, acknowledgment of deeds, etc., issue subpoenas for witnesses, solemnize marriages, and try minor civil and criminal cases. A civil case is a suit at law where the object is the recovery of property or rights violated, and results in the payment of money or the restoration of the rights involved. The plaintiff or the person bringing the suit is usually an individual. A criminal case is a suit at law where the object is the punishment for wrong-doing or crime, and, in this State, results in the fining or imprisonment of the criminal. The plaintiff or the one bringing the suit is always the State. In civil matters the justice of the peace has the power to hear and decide cases where the amount in controversy does not exceed \$200; in cases of greater amounts he has not the power to decide, but only to begin the suit. In criminal matters, the justice of the peace has the power to hear and decide cases wherein the punishment does not exceed six months' imprisonment in the county jail or \$100 fine or both. In cases of greater punishment he has not the

power to decide the case, but only to hold a preliminary examination and to commit the defendant to jail or to bind him over to the court where the case is triable. Where the justice of the peace has power to decide a case he is said to have final jurisdiction, though there may be an appeal from his decision to a higher court; where he has power to begin a suit he is said to have original or initial jurisdiction.

(d) *The Constables* are the peace officers of the town and the ministerial officers of the justice of the peace. They have the power to arrest any and all violators of the law, calling to their assistance, if necessary, inhabitants of the town, and the sheriff and his deputies. It is their duty to serve within the county any writ, order, notice, etc., as required by any court or officer. They may be required by the sheriff to attend the sessions of the circuit court in their county; must cause to be prosecuted all violators of the law of which they have knowledge; and perform such other duties as may be prescribed by law.

(e) *The Assessors* are important officers and should be men of sound judgment. It is their duty to value the property—both real and personal—of the residents of the town for purposes of taxation. This valuation is made every year in the spring on blanks that are furnished for that purpose.¹

COUNTY GOVERNMENT.

26. Organization; Size.—There are seventy counties in Wisconsin, varying in population from a little over 1000 (Forest county) up to 240,000 (Milwaukee county), with an average area of eight hundred square miles per county. These counties have been created by the State legislature from time to time as required by the increase of population. When the Constitution was framed in 1848, the

¹ See § 95, a.

convention thought that an area of nine hundred square miles, or twenty-five congressional townships, would be of convenient size in the formation of counties, so this limit is embodied in the Constitution. How nearly the legislature has conformed to it may be seen by the figures given above. After a county of the size indicated has once been established, the legislature cannot divide it without submitting the matter to a vote of the people; but it may cut down a county of larger size—either establishing a new county, or adding to one of smaller size—without submitting the matter to a vote of the people. This limit of nine hundred square miles, therefore, was not intended to be inflexible, but simply a guide for the legislature to follow in organizing new counties in the more thinly settled portions of the State as population increased.

27. County Seat.—Each county has a county seat, which is established by the county board at its first meeting after the new county is organized. The county seat is the place where the government of the county is conducted, and contains the county buildings and offices. The county seat may be removed to another place in the county whenever the people choose, providing a majority vote in its favor, as prescribed by the general statutes.

28. Government.—The Constitution provides for the establishment of county governments by the legislature of the State—the limitation being that there shall be but one system, which shall be as nearly uniform as practicable. The functions of the county are, to furnish the people with the necessary machinery for the administration of local self government and to provide an agency of a local character for the better administration of the laws of the State. The departments of government are, therefore, executive, administrative, legislative and judicial, and the work of governing devolves upon the various officers and the county board of supervisors.

29. The County Board.—The county board is com-

posed of the chairman of each town board, the supervisor of each ward of a city, and the supervisor of each village within the county. Villages of 4000 inhabitants or over are allowed to send one supervisor for every 1000 of their inhabitants. If for any reason the chairman of the town board cannot attend, any member of the town board may act in his place.

The board is required to meet annually on the Tuesday next succeeding the second Monday in November. Special meetings may also be called as needed. The meetings are held at the county seat, and are open to the public—that is, any one conducting himself in an orderly manner may attend them. The proceedings are also published for the inspection of the people. A majority of the members constitutes a quorum, and any member who is absent without good cause or without an excuse from the board may be arrested and brought before the board.¹ At the first meeting, the board organizes by the election of a chairman, who serves until the next board is elected and qualified. Motions are made, regulations are adopted, discussions take place, and business is conducted in accordance with parliamentary rules. The clerk of the county acts as clerk of the meeting, or a deputy is appointed. The board does a large amount of its work through committees appointed by the chairman.

30. Powers and Duties of the County Board.—The Constitution provides that the legislature may confer upon the county board powers of a “local, legislative, and administrative character.”² This has been done from time to time, so that to-day the county board may exercise the following important powers—many of the less important ones are omitted in this enumeration: It looks after and cares for all the buildings and property of the county;

¹ In practice, however, this power is rarely exercised.

² *Art. IV. Sect. 22.*

prescribes the form and manner of keeping the records of the county; provides an official seal for the county and its officers; examines and settles all accounts of the county; levies all taxes needed to defray the expenses of the county and makes the county assessment;¹ fixes the salaries of county officers; makes out a list of jurors; may change the name and boundaries of any town or village, and also the name of any person within the county; may incorporate literary, benevolent and scientific institutions, and establish asylums for incurable insane; may erect and construct a soldiers' monument at a cost not exceeding \$10,000; may purchase lands for agricultural fairs, at a cost not exceeding \$8000; may grant charters for roads, bridges, ferries, etc., and fix the rates of toll; may alter, vacate, or discontinue State roads; and may allow bounties for the destruction of wild animals.

31. The Other County Officers.—The work of the county board is mainly legislative, so that the administration of the laws of the State and of the rules and regulations of the board devolves upon the other officers of the county. These are a clerk, treasurer, sheriff, coroner, register of deeds, surveyor, district attorney, clerk of the circuit court, and superintendent of schools. They are elected in the fall at the general election—the Tuesday next after the first Monday in November. Their term commences on the first Monday in January following, and continues for two years. Vacancies, except in the office of clerk of the court, and in the office of county superintendent of schools, are filled by appointment by the governor for the residue of the term. A vacancy in the office of clerk of the court would be filled by appointment by the circuit judge, while that in the office of county superintendent would be filled by appointment by the State superintendent. Besides the officers named above there are also a

¹ See § 96, b.

county judge, elected in April for a term of four years;¹ and court commissioners appointed by the circuit judge for a term corresponding with that of the judge making the appointment.²

32. Duties of the County Officers.—(a) *The Clerk* acts as clerk of the county and keeps the minutes of the meetings of the board, and a record of the resolutions, orders, and accounts, acted upon by the board; keeps all accounts of the county, and of the money received and disbursed; signs all orders for the payment of money; notifies the State superintendent of schools, each year, of all resolutions of the board pertaining to the school funds; notifies the secretary of State of all changes made in the organization and boundaries of the towns and villages in the county; and preserves all books, records and papers pertaining to his office.

(b) *The Treasurer* is the custodian of the money belonging to the county, and keeps an itemized account of all receipts and expenditures; pays out money only on the order of the county board signed by the clerk and countersigned by the chairman—payments being made in the order of presentation; also transmits to the State treasurer the State taxes collected within the county.

(c) *The Sheriff* and the deputies appointed by him are the chief executive officers of the county, and also the ministerial officers of the courts within the county. The sheriff is the superintendent of the county jail, and the custodian of the prisoners therein, and keeps a record of the name, residence and offense of each person committed to the jail, also the time of commitment, and by whom committed. He attends the sessions of the circuit court and has charge of the jurors and the prisoners; and at the beginning of each term of court he files with the clerk a list of his deputies. He serves, or causes to be served, all

¹ See § 74.

² See § 77, c.

writs, processes, orders, warrants, etc. as required by law. He is the peace officer of the county and therefore apprehends offenders against the law; when necessary he summons to his assistance the *posse committatus*,¹ and if this is insufficient to quell disturbances or riots he may call upon the Governor for the militia of the State.

(d) *The Coroner* is another executive officer of the county and acts as sheriff whenever there is a vacancy, serving notices and warrants upon him whenever he is a party to a suit, or an offender against the law. He also has the power and jurisdiction of a justice of the peace in holding inquests over the bodies of persons who are supposed to have met death by violence or accident. This inquest is an examination to determine the cause of death, and to bring to trial persons suspected of foul play in the matter. Witnesses are examined and a jury of six men is summoned to assist in deciding the case. The coroner is required to hold these inquests in counties of ninety-five thousand inhabitants or over, and may do so in all other counties. In most of the States this is the chief business of the coroner.

(e) *The Register of Deeds* keeps a record of all deeds for property and of mortgages on real estate. These instruments of writing must be recorded before they are valid, so whenever they are presented the register of deeds or his clerk endorses on them the exact time they are received, specifying the day, hour and minute. They are then copied in the books of the office, and afterward returned to the persons who presented them for record, upon the payment of the fees required. He also records maps and plats of surveys of property; and makes copies of documents in his office, upon the request of any individual and the payment of the proper fees. The register of deeds

¹ The power of the county—citizens and inhabitants who are summoned by the sheriff to meet the exigencies of the occasion.

is also required to keep certain vital statistics, such as the record of all marriages, births and deaths, occurring within the county. His books are also open to public inspection and reference.

(f) *The Surveyor* makes surveys of land and property, streets, roads, ditches, etc., upon the order of the court or on the application of an individual or corporation. He keeps a careful record of all field notes taken, preserving them in his office, and makes accurate maps and plats of all surveys, which are properly recorded in books provided for that purpose. All these books and records are carefully indexed, and open for inspection and consultation by the public, and whenever any person wishes a copy of any records in his office it is the duty of the surveyor to furnish such copies upon demand and the payment of the fees required. The county surveyor may appoint deputies, and also employ chainmen and markers to assist in making surveys. Whenever he subdivides sections as established by the United States government surveyors, he acts in accordance with the directions and regulations of the Secretary of the Interior, as determined by the laws of the United States.

(g) *The District Attorney* must be a person duly admitted to practice law. He is the legal adviser of the officers of the county and of the county board in all matters that pertain to the legal business required of them. He attends the meetings of the grand jury when requested by it, issues subpoenas for witnesses and examines them, and prepares bills of indictment and informations.¹ He prosecutes or defends in the circuit court all actions, civil and criminal, in which the county or the State is an interested party; but if he should happen to be personally interested in any case, either directly or indirectly, the circuit court may appoint some one to act in his place; it may also appoint

¹ See § 81, a.

an assistant in particular cases. In counties of 100,000 or over the district attorney may appoint an assistant district attorney.

(h) *The Clerk of the Circuit Court* keeps an accurate record and a brief history of every case—criminal and civil—that comes into court, stating the names of the parties involved, of the attorneys, the witnesses, and the jurors in the case, the manner in which the suit is brought, the date of filing all papers, the motions and orders made during the progress of the trial, the verdict of the jury, and everything that enters into the record of the case from the beginning to the end of the suit. For these purposes various books, such as “court record,” “criminal record,” “minute book,” “judgment and order book”—are provided. He also keeps other books wherein he records all appointments of court commissioners, deputy sheriffs, notaries public, the official term of all justices of the peace in the county, and certificates issued to witnesses, jurors, sheriff, etc. He is also required to register the names of all persons who declare their intention of becoming citizens of the United States, and of those who shall be admitted to citizenship by the court, in compliance with United States laws. He also, each year, notifies the secretary of State of all the persons who have been elected justices of the peace within the county, and have filed their official bonds. He also administers oaths to witnesses and jurors.

(i) *The County Superintendent* exercises a general supervision over the schools of the county. He examines teachers and issues certificates to them; also, under certain conditions, annuls certificates. He visits the schools under his care at least once each year, to inquire into their course of study, instruction, discipline and management; also to inspect the construction, heating and ventilation of the school buildings, as well as the general conveniences and comforts of the grounds and surroundings. He counsels

and advises with the teachers and school boards regarding the condition and work of the schools, and organizes and conducts teachers' institutes for the benefit of the teachers. He must attend each year, at least one of the conventions of county superintendents, held by the State superintendent, for the purpose of consultation and advice in school matters. He must make a report each year to the county board of supervisors regarding the condition of the schools, and also send to the State superintendent the names of the district clerks in his county, as well as such other information as may be called for. The county superintendent may not teach or engage in any other occupation that would interfere with his duties while holding the office; nor is any person eligible to the office of county superintendent who has not taught in the public schools of the State at least eight months, and who does not hold a county superintendent's certificate, or a certificate entitling him to teach in any public school of the State.

(j) *The County Judge*.—His powers and duties are described hereafter.¹

VILLAGE GOVERNMENT.

33. General.—Villages are governed in two ways—either they have a special charter, or they are organized under a general law passed by the legislature.² Provision was made by the legislature by which villages having special charters might change to the government under the general law; and though many have not seen fit to do so, it would be more convenient and better were all villages governed in this way, and more just for them to possess equal privileges. All the provisions relating to villages which are given in the following sections apply to those which are organized and governed under the general law.

¹ See §§ 74, 75.

² Special charter legislation was forbidden by a constitutional amendment in 1871 (see also § 3, c).

34. Incorporation.—Whenever the population of a locality becomes so dense as to need a government independent of the town, the statutes provide for the organization of a special government and the incorporation of the place as a village. When this proposed village lies wholly within one county, the population required is at least 300, and the area must be at least one-half square mile; and when it lies on the boundary line between different counties, the population required is at least 400, and the area must be at least one square mile.

Whenever the people of such a community wish to be incorporated as a village, they must first have a survey and a map of the territory made, and a census of the inhabitants taken, unless it is proposed to use the last census. These data are left open to inspection for a certain length of time; and a notice is given that an application will be made to the circuit court for incorporation. This application is in the nature of a petition, signed by at least five taxpayers and residents, and is accompanied by the survey, map and census. The court sets a time for a hearing on this petition, which is made known to the people, who may then present arguments on both sides, to the court, which may or may not grant the petition. If the court decides to grant the petition, it orders an election to be held within sixty days in the proposed village, to determine finally upon the matter, and the people vote "yes" or "no" on the question. A majority decides. If the decision is in favor of incorporation, the result and all the papers pertaining to the matter are recorded in the office of the county register of deeds, and also with the village clerk after his election.¹

¹ In 1896, the Supreme Court declared this method of incorporation to be unconstitutional, because it conferred a discretionary legislative power upon the courts. But the legislature which is in session at present (1897) will probably legalize the acts of all villages incorporated by this method, and pass a new law on the subject.

35. Officers.—The officers of a village are a president and six trustees, constituting the village board; a clerk, treasurer, supervisor, marshal, constable, police justice, and two justices of the peace; and such other officers as the village board may appoint. These officers are elected for one year, with the exception of the police justice and the justices of the peace, who are elected for two years.¹ The election is held on the first Tuesday in May.

36. The Village Board is the general legislative body for the village and may make all rules, regulations, ordinances and by-laws necessary for the good government of the village, as specified in the laws of the State. Villages having a population of 2900 or over have some powers not possessed by smaller ones. All village ordinances must conform to the State laws and the Constitution, and also to the special charter, if it is governed by such instead of by the general law.

37. Duties of the Officers.—(a) *The President* is the chief executive officer of the village and is responsible for its peace and good order; and in case of disturbance or riot he may appoint as many special marshals as shall be necessary. He presides over the meetings of the board, and signs all ordinances, rules, regulations, commissions, licenses and permits adopted by them; also all orders drawn upon the treasurer. He has a vote as a trustee.

(b) *The Clerk* must attend meetings of the board and keep a record of its proceedings; must countersign and publish all ordinances, rules and regulations adopted by the board; and must draw and countersign all orders upon the treasurer, as voted by the board. He is the custodian of the village seal and must keep safely all records, books and papers committed to his charge. He also acts as clerk of election and keeps a record of elec-

¹ They take the oath of office and enter upon the discharge of their duties within ten days after election or appointment.

tion proceedings, giving notice of elections and the officers to be elected, notifying persons of their election, and transmitting the returns to the proper county and State officers, as specified by law.¹

(c) *The Treasurer* is the custodian of the money of the village and must keep an accurate account of all receipts and expenditures, with vouchers for the same, and report in detail to the board annually and at other times as required by law. He is not to pay out money except as voted by the board and upon the written order of the president, countersigned by the clerk.

(d) *The Supervisor* is the representative of the village in the county board whose duties have already been described.²

(e) *The Marshal* is the ministerial officer of the board and must obey all their lawful written orders. He is also the police officer of the village, and is authorized to arrest, with or without process,³ persons who become intoxicated, who engage in any disturbance of the peace, or who violate any State law or ordinance of the village. He may command the assistance of all persons and bystanders, whenever necessary.

(f) *The Constable* has similar duties to those prescribed for the town constable, which have been given.⁴

(g) *The Police Justice* has the power of a justice of the peace and presides over the police court, having exclusive jurisdiction of all cases arising under the laws, ordinances, and regulations of the village, and concurrent jurisdiction of all criminal cases within the limits of the village. He also has the power to administer oaths and affirmations, take depositions, acknowledgment of deeds, and other instruments in writing.

¹ See § 89.

² See §§ 29, 30.

³ An arrest "without process" is one made upon the exigencies of the occasion, without awaiting the orders of the board or the courts.

⁴ See § 25, d.

CITY GOVERNMENT.

38. Incorporation.—Cities are formed out of villages. As population increases, the needs of the people increase, and these wants are met by the incorporation of a city with enlarged powers. The first step is the filing of a petition by 100 or more electors, with the village board, or with the proper town board of supervisors, to have the question of incorporation submitted to a vote of the people. If it is purposed to include any adjacent territory as a part of the proposed city, the consent, in writing, of a majority of the electors, and of the owners of at least one-third of the taxable property in the adjacent territory shall be presented with the petition. Upon the petition being received, the village trustees or the town board, at a regular meeting, may pass a resolution to submit the question to vote. This resolution must determine the number and boundaries of the wards in the proposed city; fix the time of voting, to be not earlier than six weeks; specify the place where the electors of the adjacent territory shall vote; and provide for taking a census, unless it is proposed to classify the city according to the last State or National census. The result of the election is certified by the village clerk, or the clerk of the town (according as the petition was made to the village trustees or the town board), to the secretary of State, whereupon a patent is issued by the governor, specifying the number and boundaries of the wards of the city. This patent is recorded in the office of the secretary of State and the city becomes a body corporate and politic, endowed with the powers of a municipal corporation at common law and with such other powers as may be conferred by the laws of the State.

39. Organization of the Government.—Within ten days after incorporation, the village board or the town board is required to fix a time for the election of officers of the city, designating the voting-places and appointing three inspec-

tors of election at each polling-place. Notice of election is given by the clerk (either of village or town, as the case may be), at least ten days before the election is to be held, by publication in the newspapers and by posting in three public places. The votes are counted by the inspectors and the returns made to the village or town board, who within one week canvass the returns and declare the results, and the clerk (village or town) notifies the persons elected and issues to them their certificates of election. The persons elected to office are installed by taking an oath to support the Constitution of the State, and of the United States, and by executing a bond when required.

Such is the organization of cities under the general law, but like villages, cities are governed in two ways—those that were organized prior to 1889 have charters, while those organized since are governed by the general law.¹ A city which is now governed by a charter may abolish the charter, by a three-fourths majority vote of the council, and take up government under the general law, if it sees fit to do so; but as a rule those which have a charter have preferred to remain under the charter government. It would be much better if all were governed alike.²

40. Government under the General Law : Classes.—For convenience in legislation, cities are divided into four classes according to population: those having a population of 150,000 or over constitute the first class; those between 40,000 and 150,000 constitute the second class; those between 10,000 and 40,000 constitute the third class;

¹ In 1892 a constitutional amendment was adopted prohibiting incorporation by special charter. See *Const., Art. IV. Sect. 31; Amend. 1892.*

² The cities which up to the present time (1897) have adopted the general law are: New Richmond, Tomahawk, Mineral Point, Evansville, Sturgeon Bay, Tomah, Rhinelander, Jefferson, Prescott, Waukesha, Glenwood, Kewaunee, Edgerton, Shawano, Ripon, Marinette and Black River Falls.

and those between 1500 and 10,000 constitute the fourth class. A city may pass from a lower to a higher class whenever it has sufficient population and the common council makes proper provision for the necessary change in the government.

41. Functions.—Cities are governed by their own officers, and their functions are fourfold—legislative, executive, administrative, and judicial. Some of the officers are appointed, but for the most part they are elected by the qualified voters of the city. The Constitution of the State and the laws made by the State legislature specify who are the qualified voters in all elections—whether National, State or local—that are held in the State, and also indicate the manner in which the votes are to be cast, as well as fix the time of voting.¹

42. Wards.—For the purpose of securing proper representation of the people in the making of city laws, and also for facilitating the administrative work of the city government, cities are divided into wards, whose number and size is dependent upon the population of the city. The ward boundaries may be changed by a three-fourths majority vote of the city council, but they must conform to the provisions of the statutes regarding contiguity and population.

43. Officers in the Different Classes.—The cities of the second, third and fourth class have the same officers, as follows: a mayor; two aldermen, a justice of the peace, constable and supervisor, from each ward; a treasurer, clerk, comptroller, attorney, assessor, engineer, chief of police, city physician, street commissioner, chief of fire department, board of public works, board of school commissioners, policemen, and such other officers or boards as the common council may deem necessary. The range of population embraced in cities of the second, third and

¹ See Chapter VI.

fourth classes is from 150,000 to 1500, and it might be that the smaller cities would not need all of these officers; so provision is made in the statutes by which certain officers may be dispensed with and their duties be performed by the others. This may be done by a two-thirds majority vote of the common council, and the officers that may be dispensed with, are street commissioner, city engineer, comptroller, and board of public works.

The officers of cities of the first class are: a mayor; two aldermen, a tax commissioner and assessor, justice of the peace, and constable from each ward; a treasurer, comptroller, attorney, clerk, city engineer, board of public works, school board, board of commissioners of the public debt, board of health, one or more city physicians, chief of police, chief engineer of the fire department, one or more harbor masters where required, assessors, policemen, bridge tenders, firemen, street commissioners, and such other officers as the common council shall deem necessary.

44. The Term of Office, for all officers except justice of the peace, in all classes of cities, is one year, unless the common council should provide a longer term, which option is given by the statutes. The term of justice of the peace is fixed by the statutes, and is two years.

45. Election and Appointment.—The mayor, treasurer, comptroller, assessors, aldermen, justices of the peace and supervisors are elected by the people on the first Tuesday in April. The other officers may be appointed by the mayor, subject to confirmation by the council; or they may be elected by the common council—as shall be determined by ordinance.¹

46. Salaries.—The council fixes such compensation as it deems proper for all city officers; but in cities of the second, third and fourth class no salary can be paid to

¹ They take the oath of office and enter upon the discharge of their duties within ten days after election or appointment.

the mayor or members of the council except as ordered by a three-fourths majority vote of all the members elected to the council.

47. Vacancies.—These may be caused by death, resignation, removal from the city or ward, and failure to “qualify and enter upon the discharge of the duties of the office,” and also by removal from office. They are filled by appointment by the mayor and confirmation by the council, except in the case of the mayor, who is elected.

48. Removals.—The common council by a three-fourths majority vote of all its members may remove, for cause, any officer of the city. Opportunity must be given the officer for a hearing in his own defense, and the council has power to compel the attendance of witnesses at the hearing. When charges have been preferred against an officer, the mayor may suspend him until his case shall be heard and disposed of, and in the meantime fill the vacancy temporarily by appointment.

49. The Common Council in all classes of cities is composed of the mayor and aldermen.¹ The council is required to hold its first meeting in each year on the third Tuesday of April, and thereafter to meet regularly on the first Tuesday of each month. Special meetings may be called by the mayor whenever needed. The council determines its own rules; is judge of the election and qualifications of its own members; may compel the attendance of its members at its meetings, employing the police, if necessary; may punish its members or other persons attending its meetings for disorderly behavior; may fine or expel members for neglect of duty or unnecessary absence from meetings, and must conduct its business in open session. As further means of publicity the laws

¹ A bill is pending in the present legislature (1897) to make the legislative body of cities consist of two houses instead of one.

require voting on confirmations and financial measures to be *viva voce* and recorded in the journal kept by the clerk; and they also require the "ayes" and "noes" to be taken when demanded by any member. A quorum consists of two-thirds of the members. At the first meeting in each year the council chooses from its members a president who acts as mayor in his absence or disability. In cities of the first class the president presides over the council meetings; in cities of the other classes he presides only when the mayor is absent.

50. Powers and Duties of the Common Council.—

The common council is the legislative body for the city, as the village board is for the village. The laws of the State prescribe and enumerate the specific matters upon which the council may legislate, and require that all ordinances, rules and regulations made by the council shall be in conformity with the State Constitution and laws, and also the United States Constitution and laws. The council is, therefore, vested with the management and control of the finances of the city, and may grant licenses, levy taxes, and borrow money, issuing bonds therefor, under the limitations prescribed in the laws and the Constitution.¹ The council also has the control of the public property of the city, such as buildings, streets, markets, parks, cemeteries, etc., and may make needful rules and regulations concerning them. The council may pass such ordinances and by-laws as are needed for the government and good order of the city, for the benefit of trade and commerce, for the health of the people and for the prevention of crime; and impose penalties and punishments for the violation of these rules and regulations. In accordance with these powers, police and fire departments are organized, and boards of health are established; persons engaged in certain occupations, such as gamblers, peddlers, showmen,

¹ See *Art. XI. Sect. 3*; also *Amend.*

butchers, manufacturers of gunpowder, soap, etc., are placed under certain restrictions and prohibitions; fast driving and racing is prohibited; bells and lamps may be required on bicycles; the size, weight and quality of a loaf of bread may be prescribed, as well as the inspection of weights and measures by the city sealer of weights and measures, and the punishment for the use of false weights and measures; the construction of buildings and the materials used may be regulated; and numerous other details in the interest of public safety and good government arising from the massing of people in cities, are the subjects of legislation and control by the council.

51. Duties of the Officers.—(a) *The Mayor* has different powers and duties in the different classes of cities, but his ordinary duties are as follows: He is the chief executive officer, and the head of the fire and police departments. He sees that the laws of the State and the ordinances of the city are enforced, and that the officers of the city discharge their duties. He recommends such measures to the council from time to time, as he deems necessary. He signs licenses, contracts, permits, and claims granted or allowed by the council. He has the veto power. He has the power of appointing certain officers and boards, such as policemen, boards of public works, health commissioners, etc. In most cases appointments are subject to confirmation by the council.

(b) *The Clerk* has the care and custody of the corporate seal and of the papers and records of the city. He is required to attend meetings of the common council and keep the minutes of their proceedings, and to record all ordinances, bonds and licenses; also to draw and sign orders upon the treasurer, as voted by the council. He keeps an account with the treasurer and makes a financial statement at the close of each fiscal year showing the receipts and disbursements for that year, which is published in the official papers of the city. He has power to administer

oaths and affirmations that are authorized to be taken by and under the laws of the State. He may appoint a deputy to assist him in the work of his office and to act in his place in case of disability or vacancy until the disability is removed or the vacancy filled. The clerk also has such other powers and duties as may be prescribed by the general laws of the State; and in cities of the second, third and fourth classes he is *ex officio* secretary of the board of public works, and of the board of school commissioners.

(c) *The Treasurer* collects all city, county and State taxes for the city; and receives and pays out money belonging to the city, of which he must keep detailed and accurate accounts, arranging them according to each separate fund in his custody. He is required to make a monthly report to the council of all his receipts and expenditures, and to file an annual report with the city clerk. His books are open to inspection at all reasonable times by any voter of the city. He is paid a salary fixed by the council before his election, and is not allowed to receive fees or a *per diem*.

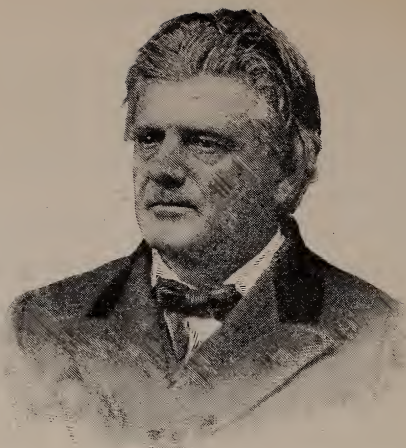
(d) *The Comptroller* has different powers and duties in the different classes of cities, but his ordinary duties are as follows: He makes an annual report of the expenses of the city and its wards for the last fiscal year, together with an estimate of the probable expense and income from sources other than taxation for the ensuing year. He examines the city orders, and the estimates and contracts made by the board of public works, and must countersign them before they are valid. He files with the clerk a list of all special taxes to be levied, and reports monthly to the council the condition of the several funds of the city, and all outstanding debts against them. He audits and adjusts all claims and demands against the city, before they are considered and allowed by the council. He examines, each month, the accounts of the treasurer, and reports as to their correctness. He may administer oaths, swear wit-

nesses, and take testimony whenever needed in the performance of his duties. He may also appoint a deputy, who shall assist in his work and act in his absence and disability. He keeps a record of all his official acts, which is open to inspection by the public.

(e) *The Attorney* conducts the official law business of the city, and furnishes written opinions when called for, upon subjects submitted to him by the mayor, council, or other officers of the city. He keeps a docket of all cases in which the city is interested and a statement of all matters pertaining to them. He drafts ordinances, bonds, contracts, etc., as required by the officers of the city. He examines and inspects tax rolls and assessments and all proceedings relative to the collection of taxes. He has the power to appoint an assistant who shall help in the work of the office, and during disability or vacancy.

(f) *The other officers*, such as the justices of the peace, constables, assessors, and supervisors, have duties like those of the corresponding town and village officers.¹ The board of public works looks after the public works of the city, and keeps all streets, alleys, sewers, buildings, parks, etc. in proper condition. The board of school commissioners looks after the organization, management and control of the schools of the city, and establishes rules and regulations for their conduct. The board of health looks after the health of the city, and makes such rules and regulations as may be necessary concerning quarantine, the cleaning of premises, and the prevention of the spread of contagious diseases. They have many important powers. The duties of the other officers are in a general way indicated by their names, and are such as may be prescribed by the council, in addition to those specified in the general laws of the State.

¹ See §§ 25, 29.



NELSON DEWEY, FIRST GOVERNOR OF THE STATE OF WISCONSIN.

CHAPTER V.

STATE GOVERNMENT.



52. **Departments.**—In most of the States only three departments of government—legislative, executive and judicial—are provided for; but the Constitution of Wisconsin names a fourth—the administrative. This department is directly connected with the executive department in the character of its work, and no special gain is realized by making the separation.

THE LEGISLATIVE DEPARTMENT.

53. **Members; Apportionment.**—The legislative power of the State is vested in a legislature, composed of a Senate and an Assembly.¹ The Assembly can never have less than fifty-four nor more than one hundred members; and the Senate cannot have less than one-fourth nor more

¹ See *Const. Art. IV. Sect. 1.*

than one-third of the number of members of the Assembly. Within these limits, fixed by the Constitution,¹ the legislature determines the number of members in each house. The maximum membership was reached in 1862, and since then, the Assembly has had one hundred members and the Senate thirty-three. In order that these may be equally distributed over the State, and the people properly represented in the making of laws, the Constitution² requires a new apportionment to be made after each census; and since a State census is taken midway between every National census, the apportionment is made every five years. According to the present population of the State, the apportionment is one assemblyman for about every 20,000, and one senator for about every 60,000. The apportionment is made at the first session of the legislature after each census, and consists in dividing the State into assembly and senatorial districts on the basis of the population as required. In making these districts, the legislature is required to form them of contiguous territory and to bound them by county, town, precinct or ward lines; and no assembly district may be divided in the formation of a senatorial district.³

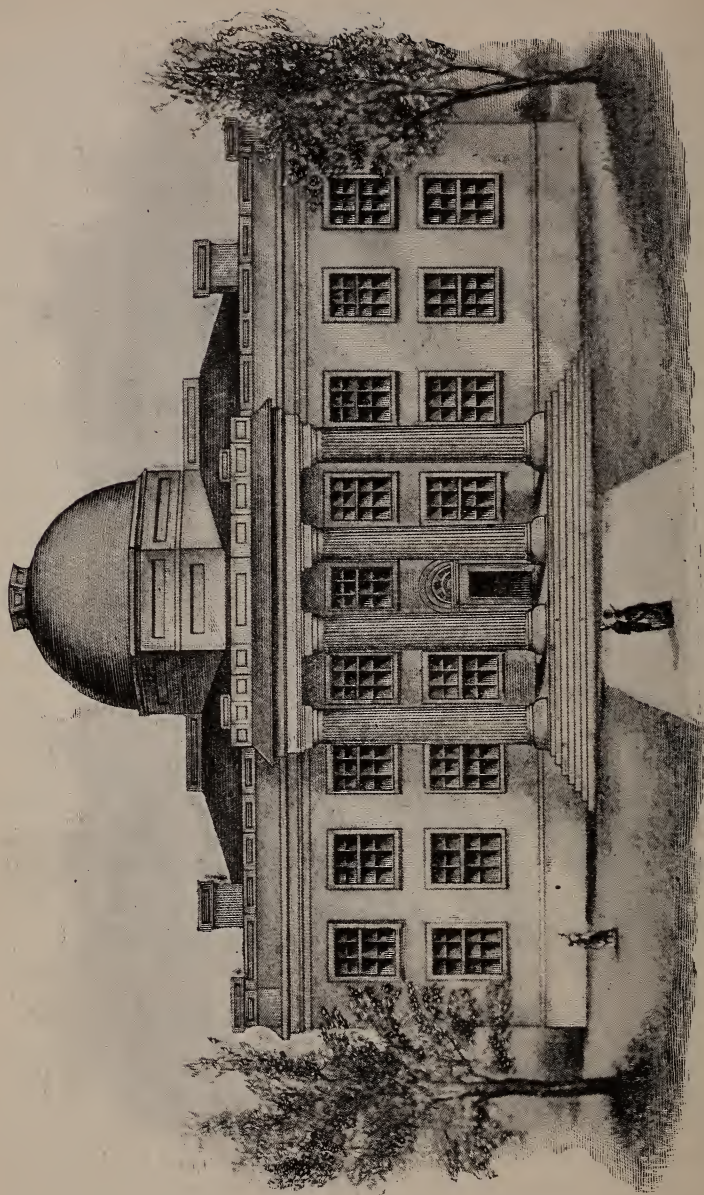
54. Election; Qualifications.—Members of the legislature are chosen by the qualified electors⁴ of the respective districts, on the Tuesday after the first Monday in November, biennially, in the even-numbered years. The term of office for assemblymen is two years, and there is

¹ See *Art. IV. Sect. 2.*

² See *Art. IV. Sects. 3-5.*

³ Many of the apportionments of the State have been unconstitutional, because the political parties, in their eagerness to secure as large a representation as possible in each house, have disregarded the mandates of the Constitution. The supreme court has twice, since 1891, declared the apportionment to be unconstitutional; and the legislature of 1895 appointed a committee to draft a bill for apportionment that should conform strictly to the Constitution. Probably action will be taken on this by the present legislature (1897).

⁴ See § 85.



THE OLD CAPITOL AT MADISON.

a new Assembly every legislature; but the term of office for senators is four years, and the Senate is a continuous body—one-half of its members holding over from one legislature to the next, for the Senate districts are numbered in regular series and the odd-numbered districts elect at one time, while the even-numbered districts elect two years later. Members of the legislature must be qualified electors of the district which they represent,¹ and they may not, when elected or while members, hold any civil or military office under the United States;² neither may they, while members, be appointed or elected to any civil office within the State, which they have been instrumental in creating, or the emoluments of which they may have been instrumental in increasing;³ nor may they, or any State officer be interested in any contract for State printing.⁴

Vacancies in either house may occur from various causes, such as death, resignation, expulsion, accepting a United States office, etc.; and when they do occur they are filled by a new election, ordered by the governor, in the district in which the vacancy exists; and the person so chosen holds office for the residue of the term only.

55. Salary.—Members of the legislature at present receive a compensation of \$500 for each regular session, and mileage at the rate of ten cents a mile going to and returning from the place of the meeting of the legislature by the most usual route. They receive no compensation for special sessions, except mileage, the same as for regular sessions. No perquisites of any kind, such as stationery, postage, newspapers, etc. are granted or allowed.⁵ The speaker of the House also receives \$500 as speaker, in addition to his compensation as a member.⁶

¹ See *Const. Art. IV. Sect. 6.*

² See *Const. Art. IV. Sect. 13.*

³ See *Const. Art. IV. Sect. 12.*

⁴ See *Const. Art. IV. Sect. 25.*

⁵ See *Const. Art. IV. Sect. 21, Amend. 1881.*

⁶ *Annotated Statutes 1889, sect. 111.*

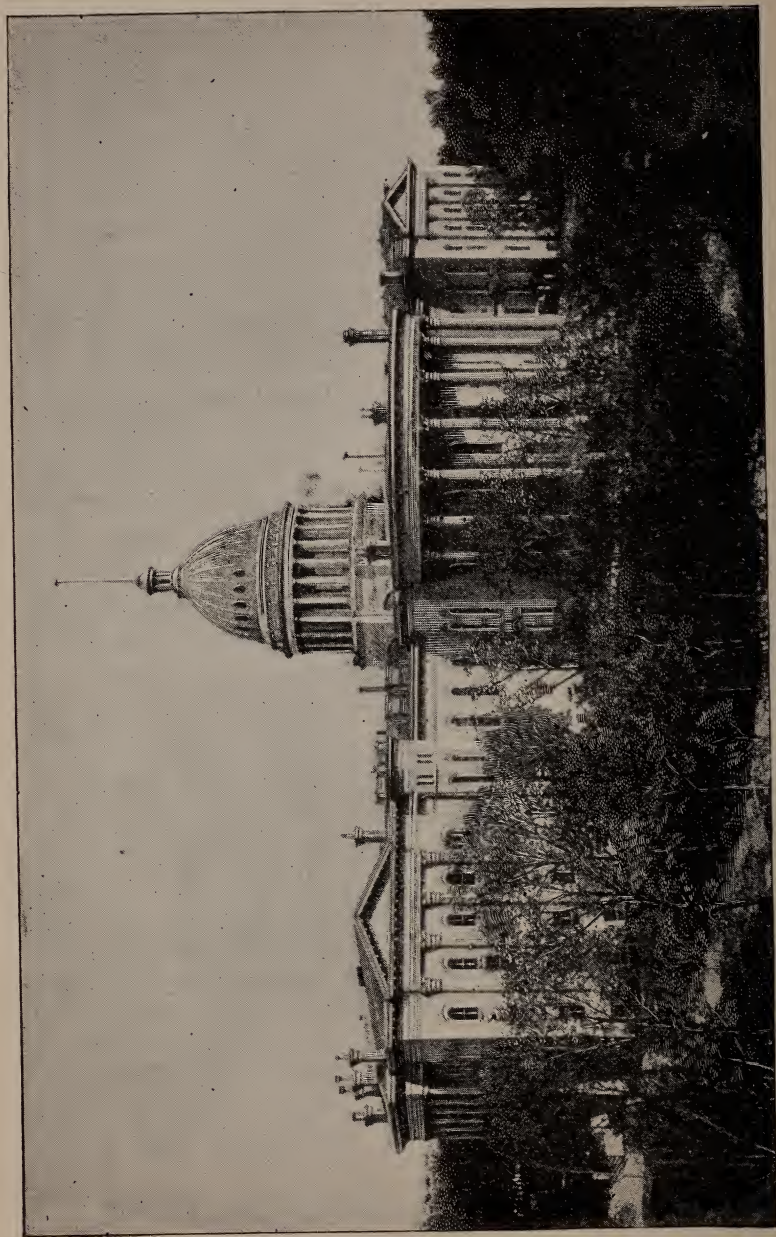
56. Privileges.—Members of the legislature are the representatives of the people, and the custodians of their rights. It was highly important therefore in ages past, when the people were beginning to secure their rights in the matter of government, that their representatives should be free and untrammelled in the exercise of their powers. Accordingly, certain privileges were demanded by them, which are still retained and regarded as vital safeguards of our liberties. Thus members of the legislature are privileged from arrest during their whole term of office, except for treason, felony, and breach of the peace. Treason is defined by the Constitution;¹ felony is an offence punishable by imprisonment in the penitentiary; and breach of the peace is disorderly conduct or indecent behavior, such as assault and battery, or disturbing public order. It is indeed proper that members of the legislature should be subject to arrest for these offences, which render them unworthy and unfit to represent the people and their rights; but on the other hand it is also proper that they should not be arrested for other matters, since they might be unduly kept from attending to their duties, thereby crippling or stifling the rights of the people. For the same reasons no civil process may be issued against a member of the legislature during its session nor for fifteen days before and after; furthermore, members of the legislature are not liable in any civil action or criminal prosecution for anything they may say in debate during the session of the legislature. It is necessary for the public good that they should have the utmost freedom of speech, so that their thoughts about men and measures may be expressed absolutely without fear or favor.² Thus it is that the people's representatives are protected in the exercise of the powers delegated to them.

¹ See *Art. I. Sect. 10.*

² See *Const. Art. IV. Sect. 16.*

57. Meetings; Organization.—The Constitution requires the legislature to meet once in two years and no oftener, unless the governor convenes it in special session. It is required to meet at the seat of government, unless a contagious disease or an invasion renders it necessary for the governor to convene it elsewhere—the time for meeting to be fixed by law;¹ accordingly, the legislature meets in Madison at twelve o'clock noon, on the second Wednesday of January in the odd-numbered years, and organization takes place immediately. The Senate, being a permanent body, as already explained, is organized in a simple manner. The lieutenant-governor, who is *ex officio* president of the Senate, calls it to order and the oath of office is administered to the new members, and the Senate is then ready for business. The Assembly, however, is a new body, though many of its members may have sat in the previous legislature, and its organization is effected as follows: The chief clerk of the previous Assembly calls the meeting to order, and reads a certified statement, which has been handed him by the secretary of State, of the names of the members-elect. The members advance to the clerk's desk, and take the oath of office, which is usually administered by one of the judges of the supreme court; the roll is then called, and if a quorum is found to be present, the house proceeds to elect its officers. If, however, the political parties have not yet selected their candidates for these offices, an adjournment takes place until the next day. The Assembly chooses a speaker, clerk and sergeant-at-arms; the speaker is a member, the others are not. Voting is *viva voce*. As soon as the speaker is chosen—and the contest is frequently an exciting one—he is conducted to the chair, and then takes charge of the meeting. When the other officers are elected and sworn in, notice is sent to the

¹ See *Const. Art. IV. Sect. 11*, Amend. 1881; and *Art. V. Sect. 4*.



THE CAPITOL AT MADISON.

Senate that the Assembly is organized. After this a joint committee of both houses is appointed to inform the governor that the legislature is organized and ready to hear any communication from him. It is usually the custom for both houses of the legislature to meet in joint session in the Assembly chamber on the day and at the hour suggested by the governor, to receive the message, though they have sometimes received it separately. The message is usually read by the governor, though sometimes it is read by his private secretary, and sometimes by the clerk of one of the houses.

58. Officers.—Each house has its own officers, some of whom are elected and some appointed. The elected officers in the Assembly are the speaker, chief clerk, and sergeant-at-arms; and in the Senate they are the president *pro tempore* (one of its members), chief clerk, and sergeant-at-arms. Besides these there are a number of clerks for various purposes, such as enrolling clerk, engrossing clerk, transcribing clerk and committee clerks; also doorkeepers, attendants, a postmaster and messengers or pages, usually boys. None of these are members; all are appointed, and they have numerous and varied duties.

59. Committees.—Each house also has its own standing committees for attending to legislation, and these are selected as soon after organization as possible.¹ In the Assembly the committees are appointed by the speaker, while in the Senate they are appointed by a resolution—the political party having the majority agrees in a caucus upon its members for the different committees, and then the list is handed over to the other party to fill out. The number of members composing the committees is determined by each house, and varies greatly; but the usual

¹ In the present legislature (1897) the Assembly has twenty-five standing committees and the Senate twenty, and there are four joint committees.

number is three in the Senate and five in the Assembly, though some committees have as many as eleven members; thus the same member of the legislature may serve on two or three different committees. Some of the important committees are those on the judiciary, State affairs, education, taxation, town and county organization, cities, incorporations, public improvements, manufactures and commerce, and railroads. These committees have their own organization—a chairman and clerks—and hold meetings where all matters referred to them are discussed, lobbyists are heard and investigations made. It is here that three-fourths of the work of legislation is effected, for unless a bill is favorably reported to the legislature by a committee, it is practically killed.¹

60. Sessions; Order of Business.—The legislature may continue in session as long as it chooses, since no limit is set by the Constitution, but it adjourns ordinarily after sitting from two to three months. The hour for convening on each day is determined by each house for itself, and is ordinarily ten o'clock in the morning. No business can be attended to unless a quorum—*i. e.* a majority of the elected members of each house—is present; but a smaller number of each house may meet and adjourn from day to day and compel the attendance of absent members.² Before a vote can be taken on the final passage of any financial bill, three-fifths of the members elected are required to be present in each house, to constitute a quorum.³ The order of business which each house follows is determined by itself, but in the main it is the same in both houses. After roll-call and the correc-

¹ In addition to the standing committees, select committees are also appointed as occasion may require. Although committees are very useful in expediting and facilitating legislation, and therefore serve a good purpose, yet they are also the places where most of the log-rolling, bribery and corruption occur.

² See *Const. Art. IV. Sect. 7.*

³ See *Const. Art. VIII. Sect. 8.*

tion of the journal, each house is ready to receive petitions, memorials and communications. Resolutions may then be offered and considered, after which opportunity is given for the introduction of bills. Reports of committees are next taken up, and then communications from the governor and messages from the other house are considered. Lastly, there is the consideration of the bills that have been introduced, and are ready for the third reading preparatory to their final passage. The legislature is a deliberative body and its meetings are subject to the general rules of parliamentary law—modified, however, as each house may determine for itself.

61. Making the Laws.—The Constitution requires all laws to be enacted by bill.¹ This prevents the adoption of resolutions by either or both houses, that shall have the force of laws. The Constitution also requires that no private or local bill shall embrace more than one subject, which must be expressed in the title.² This prevents combining several private or local matters in one measure to get for each the support of all interested; it prevents, also, attaching “riders,” or some bill of little moment that could not pass if attention were called to it, to a bill that all are interested in, thus securing the passage of both; and further, it prevents the passage of objectionable measures by titles that do not express their contents.

A bill may be defined as a proposed law; but before it becomes a law it must either (1) be passed by both houses and signed by the governor; or (2) be passed by both houses, vetoed by the governor and passed over his veto by a two-thirds majority in each house; or (3) be passed by both houses and then kept by the governor, without signing, for more than three days (Sundays excepted), unless the legislature should, by adjourning, prevent its return within this time.³

¹ See *Art. IV. Sect. 17.*

² See *Art. IV. Sect. 18.*

³ See *Const. Art. V. Sect. 10.*

The manner in which the legislature considers a bill before it goes to the governor is as follows: The bill may originate in either house,¹ but let us suppose it originates in the Assembly. It is introduced by a member rising, addressing the speaker and sending the bill by a page to the clerk's desk. The clerk reads the title, and the speaker announces the "first reading of the bill." If it is a bill appropriating money, the clerk then reads the whole bill, but if not, he reads the title again, and the speaker announces the "second reading of the bill." Then the bill is usually referred to one of the standing committees or to a select committee for consideration, and after it is reported back it is discussed and debated by the whole Assembly and amended if necessary. The bill is then engrossed, *i. e.* rewritten with all amendments in a plain hand, whereupon it is ready for a third reading. If it is a bill appropriating money, it is read in full;² if not, the title only is read by the clerk, and the speaker announces, "The bill having been read three several times the question is, shall the bill pass?" If it passes,³ the bill is then sent to the Senate, where it goes through the same pro-

¹ See *Const. Art. IV. Sect. 20.*

² Each house after the second reading of bills has several copies printed for distribution so that each member is already posted as to their contents, and the readings in full are matters of form rather than of information.

³ The ordinary method of voting is as follows: The speaker calls for all of those who are of the opinion that the bill should pass to say "aye," and those of contrary opinion to say "no." However, if the question is upon the final passage of a bill creating a State debt, or any other financial measure, or upon the final passage of a bill over the governor's veto, or upon an amendment to the Constitution the vote *must* be taken by yeas and nays, and recorded in the journal, so that each member's vote shall be a matter of record. And further, the yeas and nays must be taken upon any question, when one-sixth of the members present request it. See *Const. Art. IV. Sect. 20; Art. VIII. Sects. 6 and 8; Art. V. Sect. 10; and Art. XII. Sect. 1.*

cess, and if the Senate concurs the bill is "enrolled," which consists in making a clear, legible copy without "erasures or interlineations." Thereupon the bill is endorsed by the chief clerk as having originated in the Assembly (for the information of the governor), and signed by the speaker of the Assembly and the president of the Senate, when it is taken to the governor for his consideration. If the governor approves the bill, he informs the Assembly,¹ and announces that he has deposited it with the secretary of State; if he vetoes it, he sends it back with his objections to the house in which it originated, when the legislature considers it further.

Such is the ordinary process of enacting laws; but it may often happen that a bill is hotly contested, and then the process may be very complex—majority and minority reports coming from the committees, amendments made by one house and rejected by the other, and conference committees appointed to adjust matters, besides various other complications.

The laws that are passed are published in accordance with the provision of the Constitution² in such manner as may be prescribed by the legislature.

62. Powers and Duties of the Legislature.—(a) *Each House.*—Certain powers and duties are assigned by the Constitution to each house, as well as to the legislature as a whole. Thus each house is the judge of the "elections, returns and qualifications of its own members," so that should any contest arise as to whether a certain candidate has been elected to that house, or whether he is qualified and entitled to a seat or not, it would be settled by that house alone. It may be settled from partisan motives entirely, and therefore injustice may be done, but such decision is final and cannot be reviewed

¹ If the bill originated in the Senate, the governor would inform the Senate.

² See *Art. VII. Sect. 21.*

by any other authority.¹ Each house also determines its own rules and may punish its members for contempt or disorderly behavior, and if necessary may expel a member whenever two-thirds of the members elected vote in favor of expulsion ; but should the member be re-elected by his constituents, he cannot be expelled again for the same cause. Each house also chooses its own officers,² and is required to keep a journal of its proceedings and to publish it, except such parts as require secrecy. Each house is also required to sit with open doors, except when the public welfare may demand a secret session. And in order that the wheels of legislation may not be stopped, neither house may adjourn without the consent of the other, for more than three days.³

(b) *Impeachment*.—Such are the powers and duties that are common to both houses, but it is the high privilege, as well as the duty, of the Assembly, when necessary, to impeach all civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors, while it is the special duty of the Senate to sit as a court in the trial of such cases.⁴ Impeachment means to accuse or to bring charges against an officer, and not to convict as is so often expressed. An impeachment trial is for some political offence and therefore is tried by the highest political body in the State, but it is conducted in accordance with the rules of courts, because the work is judicial and not legislative. The officers of the State who may

¹ The political jobbery that has resulted from such practices in the nation at large and in the various States has led many to suggest that all such contested elections should be settled by the courts through an impartial decision. This would require an amendment to the Constitution and the suggestion has not yet been very widely adopted, chiefly because the legislative bodies cannot be induced to surrender so much of their authority.

² See § 58.

³ See *Const. Art. IV. Sects. 7-10.*

⁴ See *Const. Art. VII. Sect. 1.*

be impeached are the civil officers only—not military officers or naval officers; but the term “civil officers” does not include members of the legislature, who are considered to be representatives of the people, rather than officers of the State. Whenever the Assembly by a majority vote of all its members, decides that any officer shall be impeached, it usually appoints a committee to formulate charges and to conduct the case before the bar of the Senate. The members of the Senate take oath or make affirmation “truly and impartially to try the impeachment according to evidence.” The accused conducts his defense in person or through friends or a committee acting in his behalf. Witnesses are examined and cross-examined, and when the evidence has been heard and the arguments concluded the vote is taken. In order that the decision may not be that of a mere partisan majority, two-thirds of all the members of the Senate must vote in favor of conviction or the charge fails. Since the trial and the offense are political in their nature, the punishment also is political in its character, and extends only to removal from office and disqualification from holding office under the State, or both. But the person may afterward be indicted and tried in the courts, if the occasion demands it. In case the governor or any judicial officer is impeached, the functions of office cannot be exercised by them while the trial is pending; but in all other cases the impeached officer continues in office till removed by the sentence of conviction.¹ Unless the governor is on trial, the lieutenant-governor is a member of the court and presides, but when the governor is on trial, the lieutenant-governor must act as governor, and as he is an interested party also and therefore prohibited from taking part in the proceedings, the Senate chooses one of its members to preside. There has been but one impeachment trial in the State—

¹ See *Const. Art. V. Sect. 7*, and *Art. VII. Sect. 1*.

that of Judge Levi Hubbell in 1853, and he was not convicted.

(c) *The Legislature as a Whole* is charged with the duty of making laws for the people of Wisconsin; and it may legislate on all matters not prohibited by the Constitution of the State or of the United States.¹ The laws of the State therefore cover a wide range, and concern the inhabitants in all their various relations with one another, in the everyday affairs of life. Thus the legislature provides for the organization of schools; the care and support of the poor; the incorporation of charitable, benevolent and scientific societies; the prevention and punishment of crime; the administration of justice; the formation of contracts; the conveyance of property; the building and maintenance of roads and highways; the organization of business corporations—such as railroad, life insurance, fire insurance, manufacturing and banking companies, etc.; the maintenance of public health; the creation of villages, cities, towns and counties; the conduct of elections; the levying of taxes; and the preservation of peace and public order. Indeed there is scarcely any action of the individual that is not under the protecting, guiding or restraining hand of the law of the State.

(d) *Restrictions on Legislation.*—There are several very important restrictions, however, on the law-making power of the legislature. For instance, special legislation is prohibited in certain cases.² The object of this is to remove the tendency to corruption and bribery, and to allow the time of the legislature to be given to measures of public utility. And no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall be passed by the legislature.

¹ There are some matters of legislation that are specifically required by the Constitution of the State and others that are discretionary. See Art. IV. Sect. 3; Art. VI. Sect. 3; Art. VII. Sects. 16, 18 and 22; Art. VIII. Sect. 5; Art. X. Sects. 3, 5, 6 and 8.

² See Const. Art. IV. Sect. 31.

Nor shall any conviction work corruption of blood or forfeiture of estate.¹ Nor shall any religious test be established for office, etc., nor any preference given to any mode of worship or religious establishment.² Nor shall imprisonment for debt be allowed.³ These are meant to protect the individual in the rights which are so important for the preservation of his personal security, personal liberty and freedom of conscience, and which were the bone of contention between the kings and the people in the past. These are the common restrictions placed upon the government in our different constitutions—State and National. No distinction is to be made between citizens of the State and resident aliens in the holding of property; nor are non-residents of the State holding property within the State, to be taxed higher than residents.⁴ These are not only in accordance with strict justice, but they have aided materially in the settlement and growth of the State. And when Wisconsin was admitted into the Union, it was required that the title to lands given by the United States should not be interfered with; that taxes should not be imposed on land which is the property of the United States; and that navigation on the Mississippi River and the streams emptying into it and into the St. Lawrence, as well as the carrying places between, should be free.⁵ There are also provisions relating to the credit of the State, and regulating the creation and payment of the public debt,⁶ which have been very beneficial to the State and the people. There are also a few other restrictions relating to banks, the division of counties, and the removal of county seats.⁷ These are a form of the “referendum,” by

¹ See *Const. Art. I. Sect. 12.* ² See *Const. Art. I. Sects. 18 and 19.*

³ See *Const. Art. I. Sect. 16.*

⁴ See *Const. Art. I. Sect. 15; Art. II. Sect. 2.*

⁵ See *Const. Art. II. Sect. 2; Art. IX. Sect. 1.*

⁶ See *Const. Art. VIII. Sects. 3, 6, 7, 8, 10.*

⁷ See *Const. Art. XI. Sect. 5; Art. XIII. Sects. 7 and 8.*

which acts passed by the legislature are not to have the force of law till ratified by the people.¹

(e) *Elections*.—Besides the function of making laws, the legislature is empowered by the United States Constitution to choose two persons to represent the State in the United States Senate. The election takes place on the second Tuesday after meeting and organization. Each house names by a *viva voce* vote, a person for senator, and the name is recorded on the journal. If there is a failure to name, that fact is also recorded. The next day at twelve o'clock M., both houses convene in joint session in the Assembly hall, and the journal of each house is read. If the same person has received the majority of all votes in each house, he is declared elected senator. If this is not the case, then the joint meeting proceeds to choose, *viva voce*, a senator. A majority elects. If a selection is not made the first day, a joint session must convene each succeeding day at 12 M. and take at least one vote, until an election is made.

A certificate of election must be made out in duplicate by the speaker of the Assembly and the president of the Senate, and delivered to the governor and the secretary of State, to be filed and recorded in their offices. Thereupon, the governor certifies the election to the president of the Senate of the United States, and the secretary of State countersigns it.

The legislature is also empowered by the State Constitution² to choose a governor or lieutenant-governor whenever the people fail to elect them. The Constitution³ requires all elections made by the legislature to be by *viva voce* vote; but it also requires⁴ that the election of the

¹ The referendum (*it must be referred*) is a system of popular legislation widely practiced in Switzerland.

² See Art. V. Sect. 3.

³ See Art. IV. Sect. 30.

⁴ See Art. V. Sect. 3.

governor and lieutenant-governor shall be by joint ballot. This is in conflict with the former, and should an election of this kind ever occur, there would be a chance for a good deal of quibbling, and possibly some doubt as to how the supreme court might decide the matter, though the special mandate would probably be followed.

THE EXECUTIVE DEPARTMENT.

63. Executive Power.—The executive department is composed of the governor and the lieutenant-governor, although the executive power is vested in the governor alone.¹ Were the executive power to be vested in any other person besides the governor, the situation would be very unsatisfactory, and like that of Rome when she had two consuls with co-ordinate powers. Oftentimes there would be disagreement, delay and disaster in the management of affairs, and the public weal would suffer. The people have, therefore, wisely fixed responsibility for the execution of the laws, upon one person alone, who is accountable to them for all his deeds or misdeeds.

64. Election; Qualifications; Salary; Vacancies.—The governor and the lieutenant-governor are elected by the qualified voters of the State for a term of two years each. The election is held in the even years, on the Tuesday next after the first Monday in November,² and the term of office begins on the first Monday in January following, when the governor and lieutenant-governor are inaugurated—frequently amid imposing ceremonies—at the State capital, by taking the oath of office, which is a pledge faithfully to perform all duties imposed upon them by law, and to support the Constitution of the State and of the United States. Of the candidates voted for, the one receiving the highest number of votes for the respective offices is elected, but should two candidates for either office receive the same number of votes, providing it were the highest number

¹ See *Const. Art. V. Sect. 1.*

² See *Const. Art. XIII. Sect. 1.*

cast, there would be no one elected and the legislature would then choose in the manner already described.¹ No one may hold the office of governor or lieutenant-governor unless he is a citizen of the United States and also a qualified elector of the State.² The governor receives a salary of \$5000 per year, and the lieutenant-governor \$1000 per year. If, for any reason, a vacancy should occur in the office of governor, the lieutenant-governor would act as governor as long as might be necessary, not to exceed, of course, the residue of the term;³ and if a vacancy should occur in the offices of both governor and lieutenant-governor, the secretary of State would act as governor until the vacancy could be filled.⁴

65. Powers and Duties of the Governor and Lieutenant-Governor.—(a) *Lieutenant-governor.*—The duties of the lieutenant-governor are ordinarily not many nor burdensome. During the sessions of the legislature, he presides over the Senate, and preserves order and decorum. He may speak on points of order in preference to members of the Senate, but he may not debate bills, nor does he have a vote unless there is a tie, when he has the casting vote. He appoints committees, except standing committees, and signs the acts, memorials, resolutions, etc., passed by the Senate. His other duties as president of the Senate are those of an ordinary presiding officer. When the legislature is not in session, the duties of the lieutenant-governor are simply those that may devolve upon him in the absence of the governor; but should the governor's office be vacant, the full duties of the governor would then be performed by the lieutenant-governor.

¹ See *Const. Art. V. Sect. 3*; also § 62, e.

² See *Const. Art. V. Sect. 2*. Citizens of the United States are those persons who are born or naturalized in the United States, and subject to its jurisdiction. (*U. S. Const. 14th Amend. Sect. 1*.) For qualified electors, see § 85.

³ See *Const. Art. V. Sect. 7*.

⁴ See *Const. Art. V. Sect. 8*.

(b) *Governor*.—The governor has a number of important duties to perform—specified not only in the Constitution but also in the laws. The most important duty of the governor is to see that the “laws are faithfully executed.” He has no discretion in the matter, and must enforce all laws whether he thinks they are wise and just, or not. In order to enforce the laws he is given command of the entire military and naval forces of the State, and he may also call upon the United States government for troops if necessary—so there is back of him, if the occasion require it, the whole military and naval strength of the country. The governor may take command in person, although it is not customary for him to do so. The military force of the State is the State militia, and consists of the able-bodied male inhabitants (with some exceptions) between the ages of eighteen and forty-five. This entire force is subject to the governor’s call whenever needed. A large portion of the militia, however, is unorganized, and it is only that part which is organized into companies constituting the National Guard that is ordinarily called out. The manner in which companies may be organized is specified in the laws.¹ The governor transacts all the business of the State with the other State officers, and is the representative of the State in its relations with other States and the United States. He appoints various State officers, commissioners and boards—some with the concurrence of the Senate and some without.² He receives resignations from various State officers, and fills the vacancies by appointment, unless an election is required by law. He may remove certain county officers³ for cause, and make new appointments or cause them to be made, as specified in the Constitution and laws.⁴ He visits

¹ See *Laws of 1893*, chap. 292.

² See § 66.

³ See *Const. Art. VI. Sect. 4*.

⁴ See *Const. Art. VI. Sect. 1*, Amend. 1882 ; also *Annotated Statutes 1889*, sect. 967. He would make all appointments except county superin-

the various State institutions, and makes a report of their condition to the legislature. He may offer rewards for escaped criminals, and he has the power to grant reprieves, commutations and pardons, except in cases of treason and impeachment. A reprieve is a stay in the execution of the sentence; a commutation is a lessening of the severity of the sentence; while a pardon is full remission of punishment. These powers cannot be exercised by the governor until after conviction, and unless an application is made according to law, while full information concerning all cases must be reported to the legislature. In the matter of impeachment, which is determined by the highest political body of the State, the governor has no authority to pardon; while in the case of treason he may suspend the execution of the sentence, and report the matter to the legislature at its next meeting, which then decides finally concerning it.¹ He has the veto power, as already explained.² He is required to communicate to the legislature at every session, the condition of the State. This is his message, and includes reports from the various State officers and boards, regarding the matters and the institutions under their charge; also a carefully prepared statement concerning the finances of the State, and the pardons, reprieves, and commutations that have been granted; and finally, suggestions and recommendations concerning the welfare of the people, and pertaining to legislation that may be needed to secure their rights and to protect their interests. There are also other powers and duties of the governor, such as convening the legislature in extra session or at some other place than the capital, adjourning it when the houses fail to agree upon a time, issuing proclamations, and commissioning certain officers.

tendent and clerk of circuit court. The former would be appointed by the State superintendent, and the latter by the circuit judge.

¹ See *Const. Art. V. Sect. 6.*

² See § 61.

THE ADMINISTRATIVE DEPARTMENT.

66. Officers and Boards.—This department consists of numerous State officers and various boards—some of which are provided for by the Constitution, but most of them are established by the laws. The following is the list: a secretary of State, a treasurer, an attorney-general, a superintendent of public instruction, a railroad commissioner and an insurance commissioner, all elected by the people in the even years, for a term of two years each; a commissioner of labor, census and industrial statistics, a dairy and food commissioner, a State supervisor of inspectors of illuminating oils, and a State fish and game warden, all appointed by the governor and Senate for a term of two years; a superintendent of public property, appointed by the governor for a term of two years; a State treasury agent, who may be appointed by the governor to hold office during his pleasure;¹ an adjutant-general and a quartermaster-general, appointed by the governor to serve during his term of office;² a board of regents of the university, composed of fifteen members, two *ex officio*, the rest appointed by the governor for a term of three years; a board of regents of the normal schools, composed of eleven members, two *ex officio*, the rest appointed by the governor and Senate for a term of three years; a State board of control, composed of six members, appointed by the governor and Senate for a term of five years;³ a board of examiners for admission to the bar, composed of five members, appointed annually by the supreme court; a State board of health and vital statistics, composed of seven members, appointed by the governor for a term of seven years;⁴ a State board of pharmacy, composed of five members, appointed by the governor for a term of five

¹ *Annotated Statutes 1889*, sect. 1579.

² *Laws of 1893*, chap. 292.

³ *Blue-book (1895)*, page 517.

⁴ *B. B.*, page 602.

years ;¹ a State board of dental examiners, composed of five members, appointed by the governor for a term of five years ;² the commissioners of fisheries, composed of the governor and the professor of zoology in the university of Wisconsin *ex officio*, and six other members appointed by the governor and Senate for a term of six years ;³ a State board of arbitration and conciliation, composed of three members, appointed by the governor from nominations made to him, for a term of two years ;⁴ a State board of immigration, composed of the governor and the secretary of State, *ex officio*, and three other members appointed by the governor ;⁵ a State board of teachers' examiners, composed of three members appointed annually by the State superintendent ;⁶ a State board of deposits, composed of the governor, secretary of State, treasurer and attorney-general ; and the trustees of the State library, composed of the judges of the supreme court and the attorney-general.

67. Qualifications.—To fill a position in any of these offices or on any of the boards, one must be a qualified voter ; but some special qualifications are required in a few instances ; thus, the railroad commissioner, the insurance commissioner, and the State supervisor of inspectors of oils, must not have any connection with railroad, insurance or oil companies, respectively, so that they may serve the people without prejudice or favor ; and the members of certain boards must be specially qualified, as the State board of pharmacy, the State board of dental examiners, the State board of examiners for admission to the bar, and the State board of teachers' examiners, where technical or scientific knowledge is important.

¹ B. B., page 603.

² B. B., page 604.

³ B. B., page 605, also *Laws of 1895*, chap. 221.

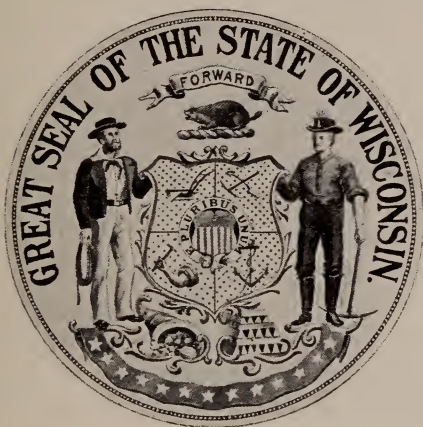
⁴ *Laws of 1895*, chap. 364.

⁵ *Laws of 1895*, chap. 235. Office to terminate Jan. 1, 1897. A bill to continue the board is pending in the present legislature (1897).

⁶ *Laws of 1895*, chaps. 457, 333, 243.

68. Powers and Duties of the Officers and Boards.—

(a) *The Secretary of State* keeps a record of the official acts of the legislative and executive departments of the government. He is charged with the safe keeping of all enrolled laws and resolutions adopted by the legislature, and may not permit them to be taken out of his office, or to be inspected except in his presence, unless upon the order of the governor or the legislature. He is also the custodian of the books, records, deeds, bonds, maps and papers, belonging to the State and deposited in his office, and is required to furnish individuals upon request certified copies of any public documents in his possession. He keeps the great seal of the State, and affixes it to all



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commissions (after countersigning them) that are issued by the governor. He issues notice of general elections, supervises the publication of the laws, and the taking of the census, apportions the State taxes, and furnishes forms for assessment and tax-rolls, besides attending to numerous other duties prescribed by statute. He is also *ex officio* auditor of the State, and, as such, superintends the fiscal concerns of the State, keeping accounts of receipts, ex-

aming the books of the treasurer, settling accounts, auditing claims, directing the collection of money due the State, etc. He is required to report annually to the governor, and to furnish any information concerning matters in his charge, to the governor or legislature whenever demanded.

(b) *The Treasurer* is the custodian of the money belonging to the State, which he pays out upon the order of the legislature or proper officers. He is required to keep accurate accounts of all receipts and disbursements, charging them to the proper funds. He makes a report to the governor and has numerous special duties prescribed by law.

(c) *The Attorney-General* is the legal adviser of the various State officers and boards, and is required to furnish legal opinions on any points presented to him by them or by the legislature. He drafts contracts and prepares other writings which may be needed for the use of the State; prosecutes, whenever necessary, official bonds and contracts in which the State is interested; and defends and prosecutes all actions and proceedings in which the State is a party, keeping an accurate and correct record of all matters pertaining to them. He also consults and advises with the various district attorneys throughout the State, when requested by them, in regard to their duties, or on matters submitted to him. Many other special duties are given him by statutes.

(d) *The Superintendent of Public Instruction* has general supervision of the educational interests of the State, especially of that part which is included within the public school system. He apportions the school funds according to law; communicates with county superintendents and school officers concerning their work; recommends suitable text-books and courses of study; appoints a high school inspector, and also a board of State teachers' examiners; gathers statistics pertaining to schools within the

State; publishes a manual for the use of teachers, also all school laws; hears appeals that may be brought to him from teachers, superintendents, boards and aggrieved individuals; is *ex officio* a member of the State board of regents for the university, and the normal schools; visits institutes, lectures before conventions, and endeavors in every suitable way to arouse an interest in, and perfect the educational system of the State. A number of other technical duties are also prescribed.

(e) *The Railroad and Insurance Commissioners* are important officers and have many special duties. The railroad commissioner gathers statistics concerning railroads, inspects their management, equipment and operation, inquires into any neglect of the laws, conducts investigations whenever necessary, and sees that railroad companies comply with the statutes of the State, in the interests and for the safety of the people. He also supervises the publication and distribution of railroad maps of the State; and publishes an itemized report concerning the receipts, expenditures, mileage, equipment, etc., of the railroad companies. The insurance commissioner attends to similar matters pertaining to insurance companies doing business within the State.

(f) *The Commissioner of Labor, Census and Industrial Statistics* collects information concerning the industries of the State—agricultural, manufacturing, commercial, mining, etc.; inquires into the condition of the laboring classes; investigates strikes, lockouts, etc.; sees to the enforcement of factory laws regarding the safety of operatives and the employment of women and children; makes recommendations and suggestions in the interests of the working classes; and publishes a report that is full of valuable information concerning the resources of the State, and the physical, mental, moral and social condition of the wage-earners.

(g) *The Dairy and Food Commissioner* conducts investi-

gations and enforces the laws of the State relative to the manufacture, sale and consumption of impure, adulterated and unwholesome foods, dairy products, drinks, drugs, etc. He is an important officer and has many technical powers and duties.

(h) *The State Supervisor of Inspectors of Illuminating Oils* exercises a general supervision of the different inspectors throughout the State. At present (1897) the State is divided into fifty-two districts, and the State supervisor appoints in each district an inspector, who is responsible for the enforcement of the laws relating to the examination, adulteration, and test of illuminating oils offered for sale. The laws require different grades of oil to be marked plainly, and the State supervisor is charged with the proper execution of these laws, in the interests of the people and their safety. Many technical duties are prescribed.

(i) *The State Fish and Game Warden* acts as secretary of the commissioners of fisheries and appoints deputies throughout the State as determined upon by the commissioners. He is required to enforce the laws pertaining to the preservation and propagation of fish and game within the State. These laws are rigid, and being duly enforced, will properly preserve these two important sources of food supply.

(j) *The Superintendent of Public Property* has charge of the capitol building and grounds, and employs the laborers necessary to keep them in repair and good condition. He also purchases fuel and supplies for the State officers, and after proper advertising, lets to the lowest bidder contracts for stationery for the legislature. He is also charged with the distribution of certain public documents, as directed by law.

(k) *The State Treasury Agent* collects licenses that are required of peddlers, showmen, travelling merchants, etc., going about the State, and performs such duties under the

license laws as the secretary of State may prescribe. He may appoint an assistant.

(1) *The Adjutant-General and Quartermaster-General* are military officers belonging to the governor's staff. The adjutant-general is chief of staff, and has charge of all military records, muster rolls, etc., relating to the National Guard. He also acts as pension agent for claims against the United States government, growing out of the civil war. The quartermaster-general is chief of ordnance, and has charge of all the military property of the State. He is also commissary-general.¹

(m) *The Board of Regents for the University*, and the *Board for the Normal Schools*, are charged respectively with the management of the University of Wisconsin, located at Madison, and the seven State normal schools, located at Platteville, Whitewater, Oshkosh, River Falls, Milwaukee, Stevens Point and West Superior. These boards have important duties to perform, and their fidelity in the administration of them has built up institutions without superiors in the northwest.

(n) *The State Board of Control* has charge of the "charitable, reformatory and penal institutions," maintained by the State. It makes rules and regulations in accordance with law, for the direction and management of these institutions; visits and inspects them; reports their condition and needs to the governor; and appoints such superintendents, teachers and officers, as may be necessary for the proper care of the inmates. It inspects also the local charitable, reformatory and penal institutions, such as county asylums, poor-houses and jails. The State and semi-State institutions under its care are: Wisconsin State Hospital for the Insane, at Mendota; the Northern Hospital for the Insane, at Winnebago; the Wisconsin State Prison, at Waupun; the Wisconsin Industrial School for Boys, at

¹ *Laws of 1893*, chap. 292.

Waukesha; the Wisconsin Industrial School for Girls, at Milwaukee; the Wisconsin Institution for the Education of the Blind, at Janesville; the Wisconsin Institution for the Education of the Deaf and Dumb, at Delavan; the Wisconsin School for Dependent Children, at Sparta; and the Wisconsin Home for Feeble-minded, at Chippewa Falls.¹

(o) *The State Board of Health and Vital Statistics* looks after the public health; conducts investigations and inquiries respecting the causes of epidemics and other diseases, and the effects of localities, employments and habits upon health; collects vital statistics of all kinds; and publishes such information for the benefit of the people. The board also has charge of matters relating to quarantine, and maintains an advisory relation with the local boards of health, which are required to be organized in every town, village, and city in the State. In case of contagion, epidemic or emergency, it may make rules and regulations which it is the duty of every local and State officer to respect and enforce.

(p) *The Board of Examiners for Admission to the Bar, The Board of Pharmacy, The Board of Dental Examiners, and The State Board of Teachers' Examiners* have been created for the purpose of securing competent persons in these respective professions, and to protect the public from impostors and ignoramuses. They hold meetings at various times and places for the examination of applicants, and grant certificates or licenses to those who are properly qualified. They are charged also with the enforcement of the laws of the State applying to these professions. In the case of teachers, examinations are also held and certificates granted by local boards or officers. It is only those who

¹ The general scope of the work of the Board of Control embraces, besides the State and semi-State institutions, 22 county asylums, 49 poor-houses, 68 jails, 198 police stations, and 50 private and benevolent institutions. (Report, 1893-94, vol. ii. p. 2.)

seek State certificates,¹ or those who wish to have countersigned the certificates and diplomas granted in other States, that come before the State board for examination.

(q) *The Commissioners of Fisheries* have the general administration and government of the State hatcheries, at Milwaukee and Bayfield, and near Madison, where fish are propagated, and from which spawn and fry are distributed for the purpose of increasing and preserving the supply of fish in the various lakes and streams of the State. They also collect information pertaining to the fishery industries of the State and publish it for the benefit of the people. They appoint a superintendent of fisheries, who has direct charge of the hatcheries and the distributing car, and attends to various duties as prescribed by law.

(r) *The State Board of Arbitration and Conciliation* was established in 1895, for the purpose of adjusting disputes between laborers and their employers, upon application, and under certain conditions. It has the power to visit the locality of the dispute, investigate fully the causes of it, hear all parties concerned and advise them as to the manner in which it should be settled. The decision is made in writing, and is binding upon all the parties joining in the application, for six months, or until either party notifies the other that he will not be bound by it for longer than sixty days after date of notice to that effect. In addition to the State board, there are also local boards, with similar powers.²

(s) *The State Board of Immigration* was created to "enhance and encourage immigration to this State," which it strives to do by collecting and disseminating information relating to the soil, climate, health, and resources of the State.

(t) *The State Board of Deposits* determines in what banks

¹ These certificates are of two kinds—limited and unlimited; the former being good for five years, and the latter for life, unless sooner annulled,

² *Laws of 1895*, chap. 364.

the public money shall be deposited. All interest that accrues is paid to the State, and all losses through failure of banks also falls upon the State.

THE JUDICIAL DEPARTMENT

69. Courts.—The judicial department is composed of various courts throughout the State, which are at present (1897) as follows: a supreme court, seventeen circuit courts, a county court in each county, two superior courts (one in Milwaukee and one in West Superior), municipal courts in cities and villages, and justices' courts in towns, villages and cities. All of these are composed of one judge or justice, with the exception of the supreme court, which is composed of five members.¹

70. The Supreme Court: Members; Meetings, etc.—The supreme court is the highest court in the State. Its members must be at least twenty-five years old, citizens of the United States and qualified electors of the State. They are elected by the people on the first Tuesday in April for a term of ten years each, and matters are so arranged that one is elected every two years.² The Constitution designates which member shall be *ex officio* chief justice.³ The meetings of the supreme court are held twice a year (January and August) in the court rooms in the capitol building at Madison, and a quorum consists of three judges. The judges each receive a salary of \$5000 annually, and are prohibited from receiving any fees. They are not eligible to any other public office during their term.⁴ Judges are subject to impeachment⁵ and they may also be removed by address of both houses of the legislature to the governor, whenever two-thirds of all the members of the legislature concur therein, and after a copy of the charges has been served upon them and they

¹ See *Const. Art. VII. Sect. 4*, Amend. 1882. ² 1895, '97, '99, etc.

³ See *Art. VII. Sect. 4*, Amend. 1882.

⁴ See *Const. Art. VII. Sect. 10*.

⁵ See § 62, b.

have been given an opportunity to be heard in their own defense.¹ The vote is required to be taken by ayes and noes.

71. Jurisdiction of the Supreme Court.—The Constitution² provides that the supreme court shall have appellate jurisdiction only, except in the matter of issuing the writs of *habeas corpus*, *mandamus*, *quo warranto*, *injunction*, *certiorari*, and other original and remedial writs. But the legislature, in accordance with the Constitution,³ has conferred upon the supreme court further original jurisdiction in the matter of trying suits against the State. The supreme court has also a general superintending control over all inferior courts. Most of the work of the supreme court consists in hearing cases brought up from the lower courts through writs of error or appeals, in accordance with the provisions of the statutes. Yet the court is very frequently called upon to issue the writs named,⁴ as well as others provided for in the statutes.

72. The Circuit Courts.—When the Constitution was adopted, it established five circuits,⁵ but it empowered the legislature to increase the number whenever necessary; so there are at present (1897) seventeen circuits. These must

¹ See *Const. Art. VII. Sect. 13.*

² See *Art. VII. Sect. 3.*

³ See *Art. IV. Sect. 27.*

⁴ **Meaning of the Writs.**—*Habeas corpus* (you may have the body) is a writ to determine whether a person under arrest is legally detained or not. *Mandamus* (we command) is an order commanding certain things to be done. If, for instance, an officer refused to vacate his office at the end of his term, or to give possession of the books and records to his successor, this writ would force him to do so. This might also be brought about by a writ of *quo warranto* (by what authority), compelling an inquiry into the matter for determining the authority by which he continued in the office. *Injunction* is a writ forbidding action under certain conditions; *e. g.* street car companies may be restrained from laying their tracks, or persons may be prevented from disposing of their property in certain cases. *Certiorari* is a writ ordering the removal of a case from a lower to a higher court when justice cannot be secured or a fair trial held below.

⁵ See *Art. VII. Sect. 5.*

be bounded by county lines, and must consist of contiguous territory. A judge is chosen by the voters of each circuit on the first Tuesday of April, for a term of six years. He must have the same qualifications as those for judges of the supreme court, and must reside within the circuit after his election. He receives annually a salary of \$3600 and \$400 for travelling expenses. Circuit judges may be removed by impeachment or by address of the legislature, the same as judges of the supreme court, and when a vacancy occurs it is filled by appointment by the governor until a successor is elected and qualified, who serves for the residue of the term. The judges are required to hold two terms of court annually at the county seat in each county; and in addition special terms may also be held. The laws fix the dates of the terms for each county.¹ Circuit judges may also hold court for each other in certain cases, as when sickness or personal interest in a trial would prevent them from holding in their own circuit.

73. Jurisdiction of the Circuit Courts.—This is both appellate and original. It is appellate in the matter of all cases brought up from the lower courts, and original (1) in all matters civil and criminal, within the State, not excepted by the Constitution and laws; and (2) in the matter of issuing the writs of *habeas corpus*, *mandamus*, *quo warranto*, *injunction*, *certiorari*, and other necessary writs.

74. The County Courts.—When the Constitution was adopted, courts of probate were provided for in each county, but authority was conferred upon the legislature to abolish these and establish inferior courts with probate powers in each county.² This was done in 1849. The people of the county choose a county judge on the first Tuesday of April, for a term of four years. The regular

¹ For example, in Grant county (5th circuit), they are the third Tuesday in February, and the second Tuesday in October.

² See *Const. Art. VII. Sect. 14.*

term of court is required to be held on the first Tuesday of each month, except July and August, at the county seat. Special terms may be held on any day in July and August, and on any other Tuesday of the other months. The court, however, is open at all times for the transaction of such business as does not require previous notice to be given to interested parties.

75. Jurisdiction of the County Courts.—The county courts attend to the probating of wills, the appointment of administrators, executors, and guardians, and all business that naturally arises in the settlement of estates and trusts, and the custody of minors or others needing guardianship. In 1854 all civil jurisdiction was taken away from the county courts, with the exception of Milwaukee, but with certain limitations a civil jurisdiction concurrent with that of the circuit court has since been conferred by special statute in several of the counties.

76. The Superior Courts.—The superior courts were created under the authority given the legislature by the Constitution,¹ to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. These courts are held by a judge elected by the people of the county, the first Tuesday in April, for a term of six years. The superior court of Milwaukee county has in general the same jurisdiction as the circuit court in civil actions and in proceedings in law and equity. The superior court of Douglas county has in general the same jurisdiction as the circuit court, in both civil and criminal matters. The jurisdiction exercised by these courts, as well as their establishment, is purely a statutory matter, and changes may be made at any session of the legislature.

77. The Minor Courts and Officers.—(a) *Municipal Courts* in villages and cities, or police courts, as they are

¹ See Art. VII. Sect. 2.

frequently called (sometimes improperly), are presided over by justices or magistrates whose power and jurisdiction is limited, usually, to matters involving the ordinances of the cities and villages; but in some of the larger municipalities their jurisdiction is co-extensive with the county, in which case their powers may correspond with those of the circuit court, as determined by the legislature.¹ The judges are elected by the voters of their respective jurisdictions.

(b) *Justices' Courts*.—These have been described previously.²

(c) *Court Commissioners*.—These are officers appointed by the circuit courts, chiefly for convenience; and there may be six in each county, to hold office during the term of the judge making the appointment.³ They may subpœna witnesses, administer oaths, take depositions and testimony in civil cases, as provided by law; acknowledge deeds and other instruments of writing, fix the amount of bail, and grant certain writs, such as *habeas corpus*, *injunction*, etc. They have, in short, in civil actions, "all the powers of a circuit judge at chambers,"⁴ but their proceedings are subject to review by the circuit court.

78. The Functions of Courts.—The chief business of the courts of the State is to interpret the laws, and to administer justice in accordance with them. Each court has its own jurisdiction, as already stated; but when a case is finished in a lower court, it may not be finally settled, for if the parties are dissatisfied with the decision, it may be appealed to a higher court; or a writ of error may be allowed, which would reopen it in a

¹ See *Const. Art. VII. Sect. 2.*

² See § 24 and § 25, c.

³ A woman who has been admitted to practice law may also be appointed to the office of court commissioner.

⁴ That is, acting out of court, having power to dispose of matters of procedure not important enough to be heard or argued in court, or too urgent to await the session of court.

higher court; or a writ of *certiorari* may remove it to a higher court before it is finished in the lower court. In this way higher courts have appellate jurisdiction from lower courts, and it is possible for a case beginning in a justice's court to be brought before the supreme court of the State before it is finally settled. Certain classes of cases also, enumerated in the United States Constitution,¹ and in United States laws, where the interests of the United States or its laws are concerned, in which the State courts have concurrent jurisdiction with the United States courts, may be removed or appealed to the latter, and thus reach the United States supreme court before they are finally settled. The majority of cases, however, are usually settled in accordance with the first decision, unless there seems to be a strong probability for reversal by the higher court.

79. The Rights of Accused Persons.—The Constitution of the State guarantees certain rights and privileges to persons accused of crimes, which are intended to prevent injustice in their trial.² It is a cardinal principle in our system of government that there shall be equality before the law, and every one therefore is entitled to the protection of the laws. Hence accused persons are given the right to know the charges against them, to have counsel in their defense, and witnesses in their behalf, to be free from excessive bail and cruel or unusual punishments, to meet opposing witnesses face to face, and to have a speedy and public trial before an impartial jury. These are exceedingly important rights, and have been secured only through centuries of intense and bitter struggle, and we should appreciate them greatly; but despite the purpose and importance of these provisions, justice sometimes miscarries, chiefly through defects in our jury system which need not be detailed here.

¹ See Art. III. Sect. 2.

² See Const., "Declaration of Rights."

80. Juries and their Selection.—Although the Constitution grants accused persons the right to have a trial before a jury—which is a body of men sworn to try the case—it does not require all cases to be tried in this way, for it permits the parties to a suit to waive a jury, in which instance the judge or “court” will try the case. Thus in the justice’s court, juries are not usually called, and the supreme court in hearing appeals does not have a jury, but the circuit courts usually have juries. In the justice’s court the number constituting the jury is six, while in the higher courts it is twelve. The decision must be unanimous. A jury in the justice’s court may be any six men that the parties to the suit agree upon, or it may be made up from a list of eighteen names prepared in accordance with law, as ordered by the justice, by each side striking off six names. If any of these should be challenged and disqualified, “talesmen” or bystanders will be put in their places. Juries for the circuit courts are selected in the following manner: town supervisors, trustees of villages, and aldermen in the cities, make out a list¹ of not less than ten nor more than twenty names of persons in their districts eligible to jury service, and send them to the county clerk, who lays them before the county board. The county board then, at its annual meeting, selects the names of one hundred and forty persons from these lists, and delivers them to the clerk of the court. The clerk of the court writes these names on separate slips of paper, and places them in a box kept for the purpose. From this, at least fifteen days before the opening of court, the clerk, in the presence of the sheriff or his deputy and a justice of the peace, draws thirty-six names,² and these persons are required to serve as jurors

¹ Within thirty days after the first Monday in May of each year.

² The county board may, by resolution, limit the number to eighteen (*Annotated Statutes 1889*, sect. 2533).

for that term of court. If, in the trial of cases, these should be challenged by the parties to a suit, and should be adjudged disqualified for service, so that a sufficient number should not be left, "talesmen" or bystanders are summoned for duty, or the sheriff is ordered to summon the necessary number from the county at large.

81. Process of Trial.—As already stated,¹ there are two classes of cases at law—civil and criminal. The process of trial is not quite the same in both, though the main features are similar; nor are the processes quite the same in the justices' courts that they are in the circuit courts, though the important features are common to both. The description that follows, therefore, is intended to set forth the ordinary steps in trials, and to give a general idea of the process, rather than to indicate the technical proceedings in each case.

(a) *The Manner of Trying a Criminal Case.*—A criminal case may be based upon either (1) an "information" or statement of charges against a person, filed with the court by the district attorney; or (2) a "complaint," a statement of charges against a person, filed by an individual; or (3) an "indictment," a statement of charges against a person, drawn up by a grand jury, and filed by the district attorney. Most cases begin with the filing of an information or a complaint, because the grand jury is not, as a rule, summoned in this State.² After the charges have been made against a person, a *warrant* for his arrest is issued to the sheriff or constable or some peace officer. The officer serving the process is required to sign and indorse on the warrant the manner and time of the service, and return it within the time specified—called the *return*. If the offense is bailable, and sufficient sureties for the appearance of the accused person at trial are offered by

¹ See § 25, c.

² It may be summoned by order of the circuit court, whenever it seems necessary.

responsible parties, a *recognizance* is taken (or bail allowed as usually stated), which is certified on the warrant and filed, and the accused person is discharged until the time of trial. If the offense is not bailable, or satisfactory surety is not offered, the accused person is kept in custody until trial. When the time for trial arrives, the *arraignment*, or charge against the accused person, is read, and he is given a chance to answer—called his *plea*. If he pleads guilty, the fact is recorded, judgment rendered, a certificate of conviction filed, and such punishment inflicted as the nature of the case may require.

If the accused person refuses to plead, or pleads not guilty, the investigation or trial proper begins. If it is a jury trial, the jurors take *oath* or make affirmation that they will “well and truly try the cause, and a true verdict give.” The witnesses who have been subpœnaed in the case also take oath or make affirmation that they will tell “the truth, the whole truth, and nothing but the truth.” The jurors are usually sworn as a body, while the witnesses are usually sworn individually, when called to testify. The *testimony* is then taken. The witnesses on the side of the plaintiff are called first, and questioned and cross-questioned by the attorneys on each side, or by the parties themselves; then those on the side of the defendant are examined in the same way. Testimony in rebuttal may also be given by each side. When the examination of witnesses is over, the lawyers make their *arguments*, those on the side of the prosecution speaking first, then those on the side of the defense, with closing arguments by the prosecution. The judge or magistrate then makes the *charge to the jury*, specifying the law applicable in the case, and turns the jury over to the custody of the sheriff or constable until it agrees upon a verdict or is discharged.¹

¹ In order that there may be no fraud the following oath is administered to the officer having the jury in keeping: “You do swear in the presence of Almighty God, that you will, to the utmost of your ability,

When the jury has reached a conclusion, it returns a *verdict*, by one of its members, whom it has chosen as foreman or spokesman, announcing the decision publicly before the court. This is recorded, judgment rendered, a certificate of conviction filed, and punishment inflicted accordingly.

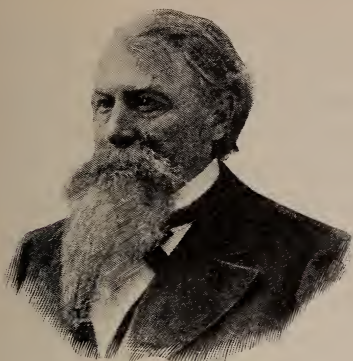
If the jury should fail to agree upon a verdict, after being out a reasonable time, it may be discharged by the order of the court, and a new one summoned, unless the parties consent that the court may render judgment on the evidence taken, or that a new trial be had before him without a jury.¹

(b) *The Manner of Trying a Civil Case.*—A civil case may begin by the voluntary appearance of the parties, or by a *summons*, issued by the court, upon a complaint or petition of some one. The summons states the names of the plaintiff and the defendant, the date of issue, the day and hour of the return, and directs the defendant to appear and answer to the plaintiff, and is served by a sheriff, constable or other peace officer. Under certain conditions it may also be necessary to issue a *warrant* for the arrest of the defendant, or a *writ of attachment*, which directs the seizure of his goods or property, pending the trial. A *return* is made, as in criminal cases. The trial is based upon the *pleadings*, which are the respective statements of the plaintiff in his complaint, and of the defendant in his answer, or the demurrers, replies, amendments and counter-claims that may be allowed by the court. In this way is

keep all the persons sworn on this inquest together in some private and convenient place, without drink, except water; you will not suffer any person to speak to them, nor speak to them yourself unless by my order, except it be to ask them whether they have agreed on their verdict, until they have agreed upon their verdict, or are discharged by the court; and you will not, before they render their verdict, communicate to any person the state of their deliberations or the verdict they have agreed upon."

¹ *Annotated Statutes 1889*, sects. 3654, 4701.

joined the issue of law or fact, or both, that is to be tried. The investigation is conducted as in criminal matters, and when the case is ended, and judgment rendered, the records are made, and an order for the *execution* of the judgment is issued.



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CHAPTER VI.

NOMINATIONS AND ELECTIONS.



82. **Political Parties.**—In a country where the people govern themselves, political parties are a necessity, and their organization becomes as thorough, systematic and minute as that of a huge business corporation. In fact, the tendency is to make their organization so detailed and perfect that their success is dependent upon good management rather than upon the principles advocated or the character of the candidates selected. This is especially true in municipal elections, and frequently also in National and State elections. This organization is effected through a system of "central committees," National, State and local, so that each party has its own managers in every election district, town, village, city, county and State in the nation. These are all inter-related and bound together under the direction of the State or National committees, so that each has a particular part to play in the campaign and election. There are no constitutional provisions upon which this

party organization is based or effected, but it has grown up with party development as a means to an end.

83. Selection of Candidates for Office.—Each political party has its own candidates for office, and these are usually selected in caucuses and conventions of its own voters. It sometimes happens, however, that some members of the party may be dissatisfied with the action of the caucus or the convention, so the laws provide for independent candidacy, by means of "nomination papers." These contain the name and residence of the candidate, the name of the office he seeks, and the party or principle he represents, and must be signed by a designated number of voters.¹

A caucus, or as it is often called, a primary, differs from a convention in the fact that it is not made up of delegates or representatives, but is an assembly of the voters themselves. The time and place of meeting, as well as the call for the caucus, is issued by the party's local committee. The caucus is presided over by a chairman chosen at the time; a secretary is also chosen, and business is conducted as in any assembly. The work of the caucus is to nominate local officers in towns, villages, and wards of cities, to select delegates to city, county, or district conventions, as the case may be, and to choose a local central committee for the next year.

It will be seen, therefore, that the caucus is of exceeding importance, and should be attended by every voter of the party who is interested in securing good government and good officers, as well as by those who are interested in the success of the party. The caucus is the place of all places where the voter can make his influence felt; for here he has a voice (1) in the selection of local candidates, so as to

¹ If it is a State officer, voted for throughout the State, the number must be at least 1000; for other officers the signatures must represent at least one per cent. of the voters at the last election in the district or division involved.

secure good local officers; (2) in the choice of delegates to the various conventions, so as to have the proper kind of men to represent him in the nomination of higher officers and committees; and (3) in the selection of honorable and reliable campaign managers. But if the voter stays away from the caucus, his influence is narrowed simply to a choice between candidates. Of these he can select the best, and vote for him, but he cannot consistently complain about the character of the candidates in whose selection he has taken no part. Let every voter remember that good candidates mean good officers, and that good candidates depend upon the proper performance of his own duties at the caucus.

The nomination of city, county and State officers, including assemblymen, senators, congressmen and judges of the circuit courts, is usually effected by conventions, named respectively city, county and State conventions, assembly, senatorial and congressional district conventions, and judicial conventions. These conventions are called by the various committees, State or district as the case may be, and the time and place of meeting, as well as the basis of representation, *i. e.* the number of delegates composing the convention, is fixed by the different committees. If a county convention is to be assembled, the county central committee designates the place and time for the convention, determines the basis of representation—*i. e.* the number of delegates each town, village and city in the county is entitled to send to the convention, notifies the various "local committees," and perhaps suggests a particular time to them for calling the caucus or primary to select the delegates. If a State convention is to be assembled, the chairman of the State central committee notifies the people of the State that the committee has fixed upon such a date and place, and announces the basis of representation; also fixes the unit of representation—*i. e.* whether the county or the assembly district shall be

the unit in selecting delegates, and instructs the chairmen of these committees (county or district, as the case may be) to call a convention on the basis named, and to notify the local committees to call a caucus in their town, village, or ward. The caucuses then select delegates to represent them in the county or district conventions, as indicated; then this convention selects the delegates to represent that county or district, as the case may be, in the State convention. The different conventions organize by choosing officers—chairmen, clerks, etc., and their work consists in selecting delegates and giving them their credentials, appointing the central committees, and nominating the candidates required for office.

84. Campaign.—After the officers have been nominated by the different parties, the campaign begins, and is carried on with more or less vigor, according to the intensity of party feeling, the character of the candidates, and the offices involved.

85. Elections; Voters.—The right to participate in the election of officers is a State matter, except so far as the fifteenth amendment to the United States Constitution regulates suffrage by preventing the States from abridging the right to vote on account of race, color, or previous condition of servitude. With this exception, therefore, the State may establish such qualifications for voting as it sees fit, consequently there is not uniformity among the various States. In Wisconsin the privilege of voting is given to all male persons of sound mind, twenty-one or more years old, who have resided in the State at least one year,¹ and in the election precinct ten days, and are citizens, or have declared their intention of becoming citizens, providing they have not been disqualified by crime or otherwise. The law also provides that women who are

¹ Persons absent from the State on the business of the State, or of the United States, are still counted residents. (See *Const. Art. III. Sect. 4.*)

citizens, and have all the other qualifications of male voters, shall be entitled to vote on school district matters, and for school district officers, in towns, villages, and cities.¹

86. Registration.—An additional qualification is also made by law requiring the registration of voters, previous to each general election in cities and incorporated villages (where separate elections are required), having a population of three thousand or more by the last census—and also in the towns which contain these villages and cities, or any part of them. The common council and the board of trustees may also extend this requirement to the annual municipal and judicial elections. If, for any reason, a person is unable to register at the times specified by the registering board, his vote may be received on election day, upon his making affidavit as required by law.

87. Election Day; Officers, etc.—The laws of the State fix the time when elections shall occur, and are as follows: the Tuesday next after the first Monday in November, for the choice of county and State officers, assemblymen, senators, congressmen, and presidential electors; the first Tuesday in April for the choice of judicial officers, and town and city officers;² and the first Tuesday in May for the choice of village officers. Previous to these elections, notices are given to the voters, by publication in the papers, or by posting in public places, or both, of the time of the election, and of the names of the offices to be filled. When general elections are to be held the secretary of State sends notice to the county clerks of the various State and National officers to be voted for; then the county clerks notify the town and village clerks, and an inspector of elections in each ward of every city in the county, of

¹ See *Const. Art. III.*; *Annotated Statutes 1889*, sect. 12; and *Laws of 1893*, chap. 288.

² In cities of the fourth class, the common council may change the time for the election of municipal officers to the first Tuesday in March. (See *Laws of 1895*, chap. 316, sect. 14.)

the different National, State and county officers to be voted for; and these various clerks and inspectors then give notice to the voters in the manner indicated above.¹

On election day, each polling place is in charge of certain election officers—viz., three inspectors, two election clerks, and two ballot clerks. These must all be voters, and able to read and write the English language; and they are not to be candidates for office, nor are more than two of the inspectors and one of each of the clerks to be of the same political party. In villages and cities, these officers are appointed by the president and mayor, subject to confirmation by the trustees and council respectively. In towns, the supervisors are the inspectors, unless they are of the same political party, or the town is divided into election precincts; in the former case the electors would choose *viva voce*, at the opening of the polls, an inspector of the opposite political party, to serve in the place of the one whose name is recorded last in the clerk's office; and in the latter case, the town board designates the inspectors. The town clerk is one of the clerks of election, and the other clerk, as well as the two ballot clerks, are appointed by the inspectors.

The duties of these officers are to see that order is kept at the polls, to help voters when necessary, to see that they do not stay in the booth longer than the time allotted (which is five minutes), to challenge voters who they think are disqualified, as well as to decide all challenges,² and to keep a record of all votes cast, counting them at the close of the polls and announcing the results.

¹ Similar notices are also given in judicial elections.

² Persons may be challenged for the following reasons: (1) Not being a citizen, or having declared his intention of becoming one; (2) Not residing in the State the required time before election; (3) Not being a resident of the town, village or ward; (4) Not being twenty-one years old; (5) For being interested in a bet or wager on the result of the election; (6) For having been convicted of treason, felony, or bribery, and not

The polls are opened and closed by proclamation. In cities of five thousand inhabitants or over, they are opened at 6 A. M., and closed at 7 P. M.; in other cities, and in towns and villages, they are opened at 9 A. M., and closed at sundown; but in cities of less than five thousand people, the common council may change the hour of opening, except that it shall not be made earlier than sunrise.¹

88. Voting.—The method of voting now adopted for National, State, county and municipal elections is that of the Australian system, by which the secrecy of the ballot is maintained. Formerly each party had its own ballots, and these were distributed to voters on election day by party managers, who were sometimes so anxious to have them vote a certain way that they would kindly mark the ballot for them and watch it deposited in the box; thus it could be easily told how anyone voted. Besides the annoyance that voters were put to in this matter, there was a positive and dangerous incentive to buy and sell votes, leading to great bribery and corruption, and a prostitution of political rights. In order, therefore, to mitigate these evils and to render it difficult, if not impossible, to determine how a man voted, the Australian system was adopted in 1889. By this method there are no party ballots, but the names of the candidates of all

since restored to civil rights; (7) For having been engaged in a duel, either as principal or accessory; (8) For being of Indian descent and a member of a tribe or an uncivilized Indian.

Each party is allowed to have two agents or representatives at each polling place, to act as challengers and to observe the proceedings of the election officers.

¹ These provisions apply to general elections. In village elections the polls are opened at 10 A. M. and closed at 4 P. M., though the village board may change the time of opening and closing to be not earlier than 7 A. M. and not later than 6 P. M.

In city elections the polls are opened at 6 A. M. and closed at 5 P. M. (See *Laws of 1895*, chaps. 155 and 316.) For the opening and closing of polls in town elections, see § 22.

parties for the different offices are printed on one ballot, and the voter does not get a ballot until he enters the polling place, and then he gets it from the election officers, whereupon he can retire into one of the booths provided for the purpose, and mark it without anyone knowing for whom he has voted. The process is as follows:¹ A voter upon entering the polling place, and giving his name and residence, receives a ballot from the ballot clerk. The names or initials of both ballot clerks must be endorsed on the ballot. The voter then retires alone to a booth or compartment, and marks his ballot. A ballot clerk may inform the voter as to the proper manner of marking a ballot, but he must not advise or indicate in any manner for whom to vote. If the voter wishes to vote for all the candidates nominated by any party, he makes a cross-mark, **X**, under the party designation printed at the top of the ballot in the square made for that purpose.² A ballot so marked, and having no other mark, is counted for all of the candidates of that party in the column underneath. If some of the names have been erased and others are written or pasted in their places, the ballot is counted for them instead of the original candidates. If the voter wishes to vote for some of the candidates of different political parties, he erases the names of the candidates he does not desire to vote for, and makes a cross mark, **X**, after the name of each candidate he does desire to vote for. If he wishes to vote for a person for a certain office, whose name is not on the ballot, he writes the name in the blank space under the printed name of the candidate for the office, and makes a cross, **X**, in the square at the right of it. The ballot should not be marked in any other manner. If the ballot be spoiled, it must be returned to

¹ *Laws of 1893*, chap. 288, sect. 27.

² "In judicial, municipal or school elections" the voter must make a cross (**X**) after the name of each person voted for. (*Laws of 1895*, chap. 322.)

the ballot clerk, who issues another in its stead, but not more than three in all may be given to any one voter. Five minutes' time is allowed in the booth to mark the ballot. Unofficial ballots or memoranda to assist the voter in marking his ballot may be taken into the booth, and may be used to copy from. The ballot must not be shown so that any person can see how it has been marked by the voter. After it is marked, it must be folded so that the inside cannot be seen, but so that the printed indorsements and signatures of the ballot clerks on the outside may be seen. Then the voter passes out of the booth, gives his name to the inspector in charge of the ballot-box, hands him his ballot to be placed in the box, and passes out of the voting place. A voter who declares to the presiding officer that he is unable to read, or that by reason of physical disability he is unable to mark his ballot, may have the assistance of one or two election officers, to be chosen by the voter, to mark the ballot for him. The presiding officer may administer an oath, in his discretion, as to such person's disability.

89. Canvassing of Votes and Announcing of Results.—In town and village elections the inspectors canvass the votes and announce the results. In city elections this is done by the common council. Detailed records are kept in each case by the town, village and city clerk. In general elections, as soon as the polls are closed, the election officers in charge of each polling place, examine the poll-books, correct mistakes, if any, open the ballot-box and count the ballots, to see that they correspond in number to the names on the poll-list. Then the ballots are opened, and a record made of the number of votes cast for each candidate.¹ A statement of the result, together with one poll-book, is deposited with the town, village or city clerk, as the case may be. The other poll-book, and another state-

¹ These provisions also apply to the canvass in town, village and city elections.

ment, are deposited with the county clerk. When the returns have thus come in from all polling places in the county, the county clerk chooses two other officers (one of whom shall be of the opposite political party) from a list named¹ in the statutes, which constitutes the county board of canvassers. This board counts the votes given for all State and county officers, and for presidential electors and congressmen if voted for at that election, makes a record of the result and files it with the county clerk, after which an announcement of the result is made and certificates of election issued to the officers chosen. Duplicate records are made for the State officers and judges, presidential electors, and congressmen, and transmitted to the governor, secretary of State, and treasurer; also for senators and assemblymen, unless the county constitutes a district by itself,² and transmitted to the respective district boards of canvassers.³ After the returns from the counties of the State have been forwarded to the secretary of State, he calls a meeting in his office, of the State board of canvassers, which consists of himself, the treasurer and attorney-general. The votes for the different State officers and members of Congress are then tabulated and counted, and the statement of results filed in the secretary's office.⁴

90. Certificates of election are given to all officers who have been declared to be elected by the different canvass-

¹ These are county judge, register of deeds, members of the county board, and justices of the peace.

² See *Laws of 1893*, chap. 288, sect. 81.

³ The district board of canvassers consists of the county clerks of the different counties in the district and of the chairman of the county board where the meeting is to be held. The returns from the different counties of the district are tabulated and counted, and a statement of the result is sent to the secretary of State, to be preserved. A statement is also recorded with the county clerk.

⁴ The canvass of the votes for presidential electors is made at a special meeting at another time. (See *Laws of 1893*, chap. 288, sect. 97.)

ing boards, and these are filed and preserved with the respective clerks, either village, city, town, or county, or the secretary of State, according as the officers are village, city, town, or county and district, or State and National.

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CHAPTER VII.

TAXES AND TAXATION.



91. Revenues.—The revenues of the State are derived from the sale of public lands, licenses, fees and taxes, and in 1896 amounted to about \$4,220,000. Of this, over \$1,330,000 was derived from licenses which are imposed upon insurance companies and mutual benefit societies, building and loan associations, telegraph and telephone companies, railroads, steamboats, vessels, etc., engaged in their respective businesses. But the largest source of income for that year was taxation—amounting to over \$1,540,000. The sale of lands yielded less than \$100,000, and this source will continue to decrease as the years go by; while the income from fees—speaking generally—is limited, for it consists in charges by officers for services rendered, as in the case of registering of deeds, recording wills, and making copies of records and documents. The State may also borrow money for certain purposes,¹ but the regular sources of revenue are those mentioned above.

92. Taxes.—A tax may be described as a charge imposed upon individuals by the government for its support and maintenance, payable in money. A tax may be levied upon the individual himself, or upon his property; in the former instance it is called a poll-tax, and in the latter a property tax. Similarly, also, a tax may be either direct—*i. e.* payable by the persons upon whom it is levied, or indirect—*i. e.* payable eventually

¹ See *Const. Art. VIII. Sects. 3, 4, 6, 7, 10.*

by others than those upon whom it first falls, such as duties upon goods. The State, however, cannot levy such indirect taxes,¹ and its taxes are direct, and are either poll or property taxes, or both, as in Wisconsin. The amount of the poll-tax per individual in this State is one dollar and fifty cents, and is levied upon the male residents of road districts, who are between the ages of twenty-one and fifty (with certain exceptions, such as disabled soldiers, firemen, militiamen, paupers, etc.), and is used for the maintenance of the highways in the district. In lieu of collecting this money tax, however, the town-meeting may require a day's work on the roads.²

93. Property.—Since poll taxes are for a special and limited purpose, it follows that the important basis of taxation is property. There are two kinds of property, personal and real, the latter being land and its appurtenances, while the former consists of stock, furniture, implements, money, bonds, and other personal belongings. Both kinds of property are taxed, and at the same rate.

94. Exemptions.—The Constitution requires taxation to be uniform, but gives the legislature power to determine what property shall be taxed, and what shall be exempt. The principal exemptions are: (1) public property, such as lands and buildings belonging to the United States, State, county, town, city, village and school-district; cemeteries; parks and fair grounds; (2) real and personal property of religious, scientific, literary, benevolent and educational societies; of telegraph, telephone and railroad companies; clothing, pictures, books, etc., not exceeding \$200; furniture not exceeding \$200; provisions and fuel sufficient to last six months; growing crops and debts due to a person equalling in amount the

¹ See *U. S. Const. Art. I. Sect. 10.*

² This tax is by no means sufficient to build the roads, and maintain them in repair, and special taxes on property are levied by the local authorities for these purposes.

debts owing by him. The general principles underlying these exemptions are, either that the property is devoted to the public welfare, and taxation, therefore, would be a useless burden imposed by the public on itself; or that an income is secured by society through licenses, so that taxation in addition would be unjust; or that the burden of taxation would seriously cripple the individual's opportunities for earning a livelihood; for taxing people beyond their means would tend to make them paupers, who would then need support from the public, which would be a bad policy for the State to pursue.

95. Valuation of Property.—(a) *Work of the Assessors.*—The work of valuing property for purposes of taxation falls upon the different assessors throughout the State, chosen in the towns, villages and cities, respectively. Blanks are furnished them by the county clerks in accordance with the forms prescribed by the secretary of State. They begin their work on the first day of May, or as soon thereafter as practicable, and make a list of all property, real and personal, subject to taxation, and affix what appears to them to be the proper valuation.¹ The owners are required to make oath that the list is a true one, and that it contains all their personal property subject to taxation.

(b) *Boards of Review.*—When the assessors have finished the valuation of property in their respective districts, the lists are submitted to a board of review for correction. In towns, this board consists of the supervisors, clerk and assessors; in villages, it consists of the president, clerk and assessors; in cities of the first class, it consists of the mayor, clerk, tax commissioner and assessors; and in

¹ Personal property is valued as it was on the first day of May; real property as before the last Monday of June. The principal items of personal property noted are live stock of all kinds, implements and tools, wagons, carriages, sleighs, farm products, pianos, organs, etc., gold and silver watches, bank-stock, moneys deposited, notes, bonds, mortgages, etc., and libraries and furniture in excess of \$200 each.

cities of the second, third and fourth classes, it consists of the mayor, assessor, clerk and one or more members of the city council.¹ These different boards are required to meet on the last Monday in June, notice being given of the time and place, so that those interested may attend. These boards examine the lists, correct errors, add omitted property, if any, and equalize the valuation of property among individuals in the district. The assessors then make all corrections ordered, and deliver the assessment rolls to their respective clerks—town, village, or city—by the first Monday in August. These clerks examine the rolls, make needed corrections, if any, and send an abstract to the county clerks by the fourth Monday in August, whereupon each county clerk makes an abstract of these reports, and sends it to the secretary of State by the second Monday in September. In this way the entire property of the State is valued for taxation, and the necessary information as the basis of assessment and apportionment given to the proper officers.

96. Assessment and Apportionment of Taxes.—This consists in the equalization of valuation among towns, villages, cities and counties in the State, and the determination of the taxes that shall be collected from each respectively.

(a) *State.*—The State assessment is made by a State board of assessment, consisting of the secretary of State, treasurer and attorney-general. It meets on the third Wednesday in May, at Madison, and determines the relative value of taxable property in each county, from the data which is submitted to it by the secretary of State. If errors should be made in the lists, they are corrected in the next tax levy. It then becomes the duty of the secretary of State to apportion the State taxes to the several counties upon this basis of assessment. He

¹ *Annotated Statutes 1889*, sect. 1060; *Laws of 1893*, ch. 312, sect. 43.

knows the amount of the State taxes authorized by the legislature to be raised that year, and also the valuation of the taxable property of the State, so that the rate per cent. is easily determined. The secretary of State, therefore, apportions to each county an amount based upon the proportion which its valuation bears to the valuation of the whole State. Notice of such apportionment is sent by him to the respective county clerks by the fourth Monday in October. This is the State assessment and apportionment.

(b) *County*.—The county assessment and apportionment is made as follows: Previous to the annual meeting of the county board of supervisors in November, the county clerks prepare statements of the tax rolls submitted to them by the various town, village and city clerks, and lay them before the county boards. Thereupon the county boards determine the relative valuation of the taxable property in each town, village and city within their limits. The county clerks then apportion the State and county taxes to the several towns, villages and cities, just as the secretary of State apportions the State taxes to each county, the county rate and amount for each town, village and city being determined in the same way. Notice of such apportionment is then sent to these respective clerks. If errors should be made, or any town, village or city should be dissatisfied with the county assessment, they may, within a year, petition the circuit judge to appoint a commission of equalization consisting of three persons. This commission reviews the work of the county board, and after full and impartial investigation in a judicial manner, determines finally the proper valuation.

(c) *Local*.—After the State and county assessments and apportionments have been made, they are added to the town, village and city assessments by the respective clerks, and the rate necessary to meet these assessments is im-

posed upon each individual to be paid as directed by law.

97. Collection of Taxes.—Local taxes in villages and cities are collected by the village and city treasurers respectively. Sometimes, also, the State and county taxes levied on property within the limits of the village or city are collected by the village or city treasurer and paid over in the same manner as if they had been collected by the town treasurer. Usually, however, State and county taxes, as well as town taxes, are collected by the town treasurer. After receiving the tax roll, the treasurer posts notices in three public places, that the taxes are to be paid to him by or before the tenth day of January. If they are not paid then, it is his duty to collect them if possible; and for this purpose he may seize and sell property whenever necessary. All taxes that he is unable to collect, he reports to the county treasurer, who is then charged with their collection. When the town treasurer has finished the collection of the taxes in his town, he keeps the local taxes of the town and his fees, and pays over to the county treasurer the town's share of county and State taxes that he has been required to collect. Thereupon the county treasurer pays over to the State treasurer the county's share of State taxes.

CONSTITUTION

OF THE

STATE OF WISCONSIN.



PREAMBLE.

WE, the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquility, and promote the general welfare, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION I. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State otherwise than for the punishment for crime, whereof the party shall have been duly convicted.

SEC. 3. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

SEC. 4. The right of the people peaceably to assemble to con-

sult for the common good, and to petition the government or any department thereof shall never be abridged.

SEC. 5. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

SEC. 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishment be inflicted.

SEC. 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed; which county or district shall have been previously ascertained by law.

SEC. 8. No person shall be held to answer for a criminal offense without due process of law, and no person, for the same offense, shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it. [*As amended by a vote of the people at the general election, November 8, 1870.*]

SEC. 9. Every person is entitled to a certain remedy in the laws, for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely; and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but

upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

SEC. 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. The property of no person shall be taken for public use without just compensation therefor.

SEC. 14. All lands within the State are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land, for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void.

SEC. 15. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

SEC. 16. No person shall be imprisoned for debt arising out of, or founded on a contract, expressed or implied.

SEC. 17. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

SEC. 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. Nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishments or mode of worship. Nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

SEC. 19. No religious tests shall ever be required as a qualification for any office or public trust, under the State, and no person shall be rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. Writs of error shall never be prohibited by law.

SEC. 22. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE II.

BOUNDARIES.

SECTION 1. It is hereby ordained and declared that the State of Wisconsin doth consent and accept of the boundaries prescribed in the act of Congress entitled "An act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union," approved August sixth, one thousand eight hundred and forty-six, to-wit: beginning at the northeast corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence, running with the boundary of the State of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menominee River; thence up the channel of the said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule, in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the head waters of the Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the St. Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois, to the place of beginning, as established by "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 18, 1818. [* *Provided,*

* Not assented to by Congress.

however, That the following alteration of the aforesaid boundary be, and hereby is, proposed to the Congress of the United States as the preference of the State of Wisconsin, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the State of Wisconsin, viz.: leaving the aforesaid boundary line at the foot of the rapids of the St. Louis river; thence, in a direct line bearing southwesterly, to the mouth of the Iskodewabo or Rum River, where the same empties into the Mississippi River thence down the main channel of the said Mississippi River, as prescribed in the aforesaid boundary.]

SEC. 2. The propositions contained in the act of Congress are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposition of the soil within the same, by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to *bona fide* purchasers thereof; and no tax shall be imposed on land, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. *Provided*, That nothing in this constitution, or in the act of Congress aforesaid, shall in any manner prejudice or affect the right of the State of Wisconsin to five hundred thousand acres of land granted to said State, and to be hereafter selected and located, by and under the act of Congress, entitled, "An act to appropriate the proceeds of sales of the public lands, and grant pre-emption rights," approved September fourth, one thousand eight hundred and forty-one.

ARTICLE III.

SUFFRAGE.

SECTION 1. Every male person of the age of twenty-one years or upwards belonging to either of the following classes who shall have resided within the State for one year next preceding any election, and in the election district where he offers to vote such time as may be prescribed by the legislature, not exceeding thirty days, shall be deemed a qualified elector at such election:

1. Citizens of the United States.
2. Persons of foreign birth who shall have declared their in-

tention to become citizens conformably to the laws of the United States on the subject of naturalization.

3. Persons of Indian blood who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any tribe; *provided*, that the legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall be submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election; *and provided further*, that in incorporated cities and villages, the legislature may provide for the registration of electors and prescribe proper rules and regulations therefor. [*As amended by a vote of the people at the general election, November 7, 1882.*]

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 3. All votes shall be given by ballot, except for such township officers as may by law be directed or allowed to be otherwise chosen.

SEC. 4. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States, or of this State.

SEC. 5. No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery or larceny, or of any infamous crime, and depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative power shall be vested in a senate and assembly.

SEC. 2. The number of the members of the assembly shall

never be less than fifty-four, nor more than one hundred. The senate shall consist of a number not more than one-third, nor less than one-fourth, of the number of the members of the assembly.

SEC. 3. The legislature shall provide by law for an enumeration of the inhabitants of the State, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also for each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

SEC. 4. The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November after the adoption of this amendment, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory, and to be in as compact form as practicable.

SEC. 5. The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen, and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even numbered districts. The senators elected, or holding over at the time of the adoption of this amendment, shall continue in office till their successors are duly elected and qualified; and after the adoption of this amendment, all senators shall be chosen for the term of four years.

SEC. 6. No person shall be eligible to the legislature who shall not have resided one year within the State, and be a qualified elector in the district which he may be chosen to represent.

SEC. 7. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 8. Each house may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and, with

the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SEC. 9. Each house shall choose its own officers, and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall act as governor.

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days.

SEC. 11. The legislature shall meet at the seat of government at such time as shall be provided by law, once in two years and no oftener, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

SEC. 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 13. No person being a member of congress or holding any military or civil office under the United States, shall be eligible to a seat in the legislature; and if any person shall, after his election as a member of the legislature, be elected to congress, or be appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

SEC. 14. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

SEC. 15. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 16. No member of the legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 17. The style of the laws of the State shall be, "The

people of the State of Wisconsin, represented in senate and assembly, do enact as follows," and no law shall be enacted except by bill.

SEC. 18. No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.

SEC. 19. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended by the other.

SEC. 20. The yeas and nays of the members of either house, on any question, shall, at the request of one-sixth of those present, be entered on the journal.

SEC. 21. Each member of the legislature shall receive for his services, for and during a regular session, the sum of five hundred dollars, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature on the most usual route. In case of an extra session of the legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session. No stationery, newspapers, postage or other perquisite, except the salary and mileage above provided, shall be received from the State by any member of the legislature for his services, or in any other manner as such member.

SEC. 22. The legislature may confer upon the boards of supervisors of the several counties of the State, such powers, of a local, legislative and administrative character, as they shall from time to time prescribe.

SEC. 23. The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SEC. 24. The legislature shall never authorize any lottery or grant any divorce.

SEC. 25. The legislature shall provide by law that all stationery required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder; but the legislature may establish a maximum price. No member of the legislature, or other State officer, shall be interested, either directly or indirectly, in any such contract.

SEC. 26. The legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the service shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 27. The legislature shall direct by law in what manner and in what court suit may be brought against the State.

SEC. 28. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the constitution of the United States, and the constitution of the State of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 29. The legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same, in such manner as shall be prescribed by law.

SEC. 30. In all elections to be made by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SEC. 31. The legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons or constituting one person the heir-at-law of another. 2d. For laying out, opening or altering highways, except in cases of State roads extending into more than one county, and military roads to aid in the construction of which lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within this State. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any city, town or village, or to amend the charter thereof.

SEC. 32. The legislature shall provide general laws for the transaction of any business that may be prohibited by section

thirty-one of this article, and all such laws shall be uniform in their operations throughout the State.

[Sections 4, 5, 11 and 21, as amended by a vote of the people at the general election, November 8, 1881.

Sections 31 and 32, as amended by a vote of the people at the general election, November 7, 1871, and amendment to section 31, adopted November 8, 1892.]

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive power shall be vested in a governor who shall hold his office for two years. A lieutenant governor shall be elected at the same time, and for the same term.

SEC. 2. No person, except a citizen of the United States, and a qualified elector of the State shall be eligible to the office of governor or lieutenant governor.

SEC. 3. The governor and lieutenant governor shall be elected by the qualified electors of the State at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected. But in case two or more shall have an equal and the highest number of votes for governor or lieutenant governor, the two houses of the legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes for governor or lieutenant governor. The returns of election for governor and lieutenant governor shall be made in such manner as shall be provided by law.

SEC. 4. The governor shall be commander-in-chief of the military and naval forces of the State. He shall have the power to convene the legislature on extraordinary occasions; and in case of invasion, or danger from the prevalence of contagious disease at the seat of the government, he may convene them at any other suitable place within the State. He shall communicate to the legislature, at every session, the condition of the State, and recommend such matter to them for their consideration, as he may deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures, as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

SEC. 5. The governor shall receive during his continuance in office, an annual compensation of five thousand dollars, which shall be in full for all traveling or other expenses incident to his duties.

SEC. 6. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature, at its next meeting, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, with his reasons for granting the same.

SEC. 7. In case of the impeachment of the governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor, for the residue of the term, or until the governor, absent or impeached, shall have returned, or the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the State in time of war, at the head of the military force thereof, he shall continue commander-in-chief of the military force of the State.

SEC. 8. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the State, the Secretary of State shall act as governor until the vacancy shall be filled, or the disability shall cease.

SEC. 9. The lieutenant governor shall receive during his continuance in office, an annual compensation of one thousand dollars.

SEC. 10. Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

[Sections 5 and 9, as amended by a vote of the people at the general election, November 2, 1869.]

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. There shall be chosen by the qualified electors of the state, at the times and places of choosing the members of the legislature, a secretary of State, treasurer, and attorney general, who shall severally hold their offices for the term of two years.

SEC. 2. The secretary of State shall keep a fair record of the official acts of the legislature and executive department of the State, and shall, when required, lay the same and all matters relative thereto before either branch of the legislature. He shall be *ex officio* auditor, and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

SEC. 3. The powers, duties and compensation of the treasurer and attorney general shall be prescribed by law.

SEC. 4. Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers, except judicial officers, shall be chosen by the electors of the respective counties, once in every two years. Sheriffs shall hold no other office, and be ineligible

for two years next succeeding the termination of their offices; they may be required by law to renew their security from time to time, and in default of giving such new security their office shall be deemed vacant, but the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified. [*As amended by a vote of the people at the general election, November 7, 1882.*]

ARTICLE VII.

JUDICIARY.

SECTION 1. The court for the trial of impeachment shall be composed of the senate. The house of representatives shall have the power of impeaching all civil officers of this State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until his acquittal. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust, under the State; but the party impeached shall be liable to indictment, trial and punishment according to law.

SEC. 2. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. *Provided*, That the jurisdiction which may be vested in municipal courts shall not exceed, in their respective

municipalities, that of circuit courts in their respective circuits, as prescribed in this constitution; and that the legislature shall provide as well for the election of judges of the municipal courts as of the judges of inferior courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said municipal and inferior courts shall not be longer than that of the judges of the circuit courts.

SEC. 3. The supreme court, except in cases otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State; but in no case removed to the supreme court, shall a trial by jury be allowed. The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of *habeas corpus*, *mandamus*, *injunction*, *quo warranto*, *certiorari*, and other original and remedial writs, and to hear and determine the same.

SEC. 4. The chief justice and associate justices of the supreme court shall be severally known as justices of said court with the same terms of office, respectively, as now provided. The supreme court shall consist of five justices (any three of whom shall be a quorum), to be elected as now provided. The justice having been longest a continuous member of the court (or in case of two or more of such senior justices having served for the same length of time, then the one whose commission first expires), shall be ex-officio the chief justice. [*As amended by a vote of the people at an election April 2, 1892.*]

SEC. 5. The state shall be divided into five judicial circuits, to be composed as follows: The First circuit shall comprise the counties of Racine, Walworth, Rock and Green. The Second circuit, the counties of Milwaukee, Waukesha, Jefferson and Dane. The Third circuit, the counties of Washington, Dodge, Columbia, Marquette, Sauk and Portage. The Fourth circuit, the counties of Brown, Manitowoc, Sheboygan, Fond du Lac, Winnebago and Calumet. And the Fifth circuit shall comprise the counties of Iowa, La Fayette, Grant, Crawford and St. Croix; and the county of Richland shall be attached to Iowa, the county of Chippewa to the county of Crawford, and the county of La Pointe to the county of St. Croix, for judicial purposes, until otherwise provided by the legislature.

SEC. 6. The legislature may alter the limits, or increase the

number of circuits, making them as compact and convenient as practicable, and bounding them by county lines; but no such alteration or increase shall have the effect to remove a judge from office. In case of an increase of circuits, the judge or judges shall be elected as provided in this constitution, and receive a salary not less than that herein provided for judges of the circuit court.

SEC. 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office as is provided in this constitution, and until his successor shall be chosen and qualified; and after he shall have been elected, he shall reside in the circuit for which he was elected. One of said judges shall be designated as chief justice, in such manner as the legislature shall provide. And the legislature shall, at its first session, provide by law, as well for the election of, as for classifying the judges of the circuit court, to be elected under this constitution in such a manner that one of said judges shall go out of office in two years, one in three years, one in four years, one in five years and one in six years, and thereafter the judge elected to fill the office shall hold the same for six years.

SEC. 8. The circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State, not excepted in this constitution, and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and jurisdictions.

SEC. 9. When a vacancy shall happen in the office of judge of the supreme or circuit courts, such vacancy shall be filled by an appointment of the governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term. There shall be no election for a judge or judges at any general election for State or county officers, nor within thirty days either before or after such election.

SEC. 10. Each of the judges of the supreme and circuit courts shall receive a salary, payable quarterly, of not less than one thousand five hundred dollars annually; they shall receive no fees of office, or other compensation than their salaries; they

shall hold no office of public trust, except a judicial office, during the term for which they are respectively elected, and all votes for either of them, for any office except a judicial office given by the legislature or the people, shall be void. No person shall be eligible to the office of judge, who shall not, at the time of his election, be a citizen of the United States, and have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

SEC. 11. The supreme court shall hold at least one term annually, at the seat of government of the State, at such time as shall be provided by law, and the legislature may provide for holding other terms, and at other places, when they may deem it necessary. A circuit court shall be held at least twice in each year, in each county of this State, organized for judicial purposes. The judges of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 12. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold his office for two years, subject to removal as shall be provided by law; in case of a vacancy the judge of the circuit court shall have power to appoint a clerk until the vacancy shall be filled by an election; the clerk thus elected or appointed shall give such security as the legislature may require. The supreme court shall appoint its own clerk and a clerk of the circuit court may be appointed a clerk of the supreme court. [*As amended by a vote of the people at the general election, November 7, 1882.*]

SEC. 13. Any judge of the supreme or circuit court may be removed from office by address of both houses of the legislature, if two-thirds of all the members elect to each house concur therein; but no removal shall be made by virtue of this section unless the judge complained of shall have been served with a copy of the charges against him as the ground of address, and shall have an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journals.

SEC. 14. There shall be chosen in each county, by the qualified electors thereof, a judge of probate, who shall hold his office for two years, and until his successor shall be elected and qualified, and whose jurisdiction, powers and duties shall be prescribed by

law. *Provided, however,* That the legislature shall have power to abolish the office of judge of probate in any county, and to confer probate powers upon such inferior courts as may be established in said county.

SEC. 15. The electors of the several towns, at their annual town meetings, and the electors of cities and villages, at their charter elections, shall, in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be for two years, and until their successors in office shall be elected and qualified. In case of an election to fill a vacancy occurring before the expiration of a full term, the justice elected shall hold for the residue of the unexpired term. Their number and classifications shall be regulated by law. And the tenure of two years shall in no wise interfere with the classification in the first instance. The justices thus elected shall have such civil and criminal jurisdiction as shall be prescribed by law.

SEC. 16. The legislature shall pass laws for the regulation of tribunals of conciliation, defining their powers and duties. Such tribunals may be established in and for any township, and shall have power to render judgment to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration, and agree to abide the judgment, or assent thereto in writing.

SEC. 17. The style of all writs and process shall be, "The State of Wisconsin." All criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude against the peace and dignity of the State.

SEC. 18. The legislature shall impose a tax on all civil suits commenced or prosecuted in the municipal, inferior, or circuit courts, which shall constitute a fund to be applied toward the payment of the salary of the judges.

SEC. 19. The testimony in causes in equity shall be taken in like manner as in cases at law; and the office of master in chancery is hereby prohibited.

SEC. 20. Any suitor in any court in this State shall have the right to prosecute or defend his suit either in his own proper person or by an attorney or agent of his choice.

SEC. 21. The legislature shall provide by law for the speedy publication of all statute laws, and of such judicial decisions

made within the State, as may be deemed expedient. And no general law shall be in force until published.

SEC. 22. The legislature, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to inquire into, revise, and simplify the rules of practice, pleadings, forms and proceedings, and arrange a system adapted to the courts of record of this State, and report the same to the legislature, subject to their modification and adoption; and such commission shall terminate upon the rendering of the report, unless otherwise provided by law.

SEC. 23. The legislature may provide for the appointment of one or more persons in each organized county, and may vest in such persons such judicial powers as shall be prescribed by law. *Provided*, That said power shall not exceed that of a judge of the circuit court at chambers.

ARTICLE VIII.

FINANCE.

SECTION 1. The rule of taxation shall be uniform, and, taxes shall be levied upon such property as the legislature shall prescribe.

SEC. 2. No money shall be paid out of the treasury, except in pursuance of an appropriation by law. No appropriation shall be made for the payment of any claim against the State, except claims of the United States and judgments, unless filed within six years after the claim accrued. [*As amended by a vote of the people at the general election, November 6, 1877.*]

SEC. 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 4. The State shall never contract any public debt, except in the cases and manner herein provided.

SEC. 5. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year.

SEC. 6. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall

never, in the aggregate, exceed one hundred thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SEC. 7. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or to the repayment of the debt thereby created.

SEC. 8. On the passage in either house of the legislature, of any law which imposes, continues or renews a tax, or creates a debt or charge, or makes, continues or renews an appropriation of public or trust money, or releases, discharges or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house, shall in all such cases be required to constitute a quorum therein.

SEC. 9. No scrip, certificate or other evidence of State debt whatsoever, shall be issued, except for such debts as are authorized by the sixth and seventh sections of this article.

SEC. 10. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

ARTICLE IX.

EMINENT DOMAIN AND PROPERTY OF THE STATE.

SECTION 1. The State shall have concurrent jurisdiction on all

rivers and lakes bordering on this State, so far as such rivers or lakes shall form a common boundary to the State, and any other State or territory now or hereafter to be formed and bounded by the same. And the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax, impost, or duty therefor.

SEC. 2. The title of all lands and other property, which have accrued to the territory of Wisconsin, by grant, gift, purchase, forfeiture, escheat or otherwise, shall vest in the State of Wisconsin.

SEC. 3. The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands, the title to which shall fail from a defect of heirs, shall revert or escheat to the people.

ARTICLE X.

EDUCATION.

SECTION 1. The supervision of public instruction shall be vested in a State superintendent, and such other officers as the legislature shall direct. The State superintendent shall be chosen by the qualified electors of the State, in such manner as the legislature shall provide; his powers, duties and compensation shall be prescribed by law. *Provided*, That his compensation shall not exceed the sum of twelve hundred dollars annually.

SEC. 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for educational purposes (except the lands heretofore granted for the purposes of a university), and all moneys, and the clear proceeds of all property, that may accrue to the State by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the State where the purposes of such grant are not specified, and the five hundred thousand acres of land to which the State is entitled by the provisions of an act of Congress, entitled "An act to appropriate the proceeds of the sale of public lands, and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-

one, and also the five *per centum* of the net proceeds of the public lands to which the State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned), shall be set apart as a separate fund, to be called the school fund, the interest of which, and all other revenues derived from the school lands, shall be exclusively applied to the following objects, to wit:

1. To the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

SEC. 3. The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable, and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years, and no sectarian instruction shall be allowed therein.

SEC. 4. Each town and city shall be required to raise, by tax, annually, for the support of common schools therein, a sum not less than one-half the amount received by such town or city respectively for school purposes, from the income of the school fund.

SEC. 5. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the State, for the support of common schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax, nor to any school district for the year in which a school shall not be maintained at least three months.

SEC. 6. Provision shall be made by law for the establishment of a State university, at or near the seat of State government, and for connecting with the same from time to time, such colleges in different parts of the State as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the State for the support of a university, shall be and remain a perpetual fund to be called the "University Fund," the interest of which shall be appropri-

ated to the support of the State university, and no sectarian instruction shall be allowed in such university.

SEC. 7. The secretary of State, treasurer and attorney general shall constitute a board of commissioners for the sale of the school and university lands and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SEC. 8. Provision shall be made by law for the sale of all school and university lands, after they shall have been appraised, and when any portion of such lands shall be sold, and the purchase money shall not be paid at the time of the sale, the commissioners shall take security by mortgage upon the land sold for the sum remaining unpaid, with seven per cent. interest thereon, payable annually at the office of the treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other university and school funds, in such manner as the legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

ARTICLE XI.

CORPORATIONS.

SECTION 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage.

SEC. 2. No municipal corporation shall take private property for public use against the consent of the owner, without the necessity thereof being first established by the verdict of a jury.

SEC. 3. It shall be the duty of the legislature, and they are hereby empowered to provide for the organization of cities and

incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessment and taxation, and in contracting debts by such municipal corporations. No county, city, town, village, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to any amount, including existing indebtedness, in the aggregate exceeding five *per centum* on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on said debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. [*As amended by a vote of the people at the general election, November 3, 1874.*]

SEC. 4. The legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking power or privilege, or any institution or corporation, having any banking power or privilege whatever, except as provided in this article.

SEC. 5. The legislature may submit to the voters at any general election, the question of "bank or no bank," and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks, then the legislature shall have power to grant bank charters, or to pass a general banking law, with such restrictions, and under such regulations as they may deem expedient and proper for the security of the bill holders. *Provided*, That no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of the votes cast on that subject at such election.

ARTICLE XII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if

the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election. And if in the legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the constitution. *Provided*, That if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

SEC. 2. If at any time a majority of the senate and assembly shall deem it necessary to call a convention to revise or change this constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the legislature shall at its next session provide for calling such convention.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November. The first general election for all State and county officers, except judicial officers, after the adoption of this amendment, shall be holden in the year A. D. 1884, and thereafter the general election shall be held biennially. All State, county or other officers elected at the general election in the year 1881, and whose term of office would otherwise expire on the first Monday of January in the year 1884, shall hold and continue in such office respectively, until the first Monday in January in the year 1885. [*As amended by a vote of the people at the general election, Nov. 7, 1882.*]

SEC. 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the constitution and laws of this State, and may be punished in such other manner as shall be prescribed by law.

SEC. 3. No member of Congress, nor any person holding any office of profit or trust under the United States (postmasters excepted), or under any foreign power; no person convicted of any infamous crime in any court within the United States; and no person being a defaulter to the United States, or to this State, or to any county or town therein, or to any State or Territory within the United States, shall be eligible to any office of trust, profit or honor in this State.

SEC. 4. It shall be the duty of the legislature to provide a great seal for the State, which shall be kept by the secretary of State, and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SEC. 5. All persons residing upon Indian lands within any county of the State, and qualified to exercise the right of suffrage under this constitution, shall be entitled to vote at the polls which may be held nearest their residence for State, United States or county officers. *Provided*, That no person shall vote for county officers out of the county in which he resides.

SEC. 6. The elective officers of the legislature, other than the presiding officers, shall be a chief clerk and a sergeant-at-arms, to be elected by each house.

SEC. 7. No county with an area of nine hundred square miles or less, shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 8. No county seat shall be removed until the point to which it is proposed to be removed, shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such a point.

SEC. 9. All county officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities as the legislature shall

direct. All city, town and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

SEC. 10. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this constitution.

ARTICLE XIV.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place, and all such process which may be issued under the authority of the territory of Wisconsin previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the territory of Wisconsin, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature.

SEC. 3. All fines, penalties or forfeitures accruing to the territory of Wisconsin, shall inure to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a permanent State government, shall remain valid, and shall pass to, and may be prosecuted in the name of the State, and all bonds executed to the governor of the territory, or to any other officer or court, in his or their official capacity, shall pass to the governor or State authority, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal or mixed, and all judgments, bonds specialties, choses in action, and

claims or debts of whatever description, of the territory of Wisconsin, shall inure to and vest in the State of Wisconsin, and may be sued for and recovered in the same manner and to the same extent by the State of Wisconsin as the same could have been by the territory of Wisconsin. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the territory of Wisconsin, before the change from a territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Wisconsin, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this constitution had not been adopted. All actions at law, and suits in equity, which may be pending in any of the courts of the territory of Wisconsin, at the time of the change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 5. All officers, civil and military, now holding their offices under the authority of the United States, or of the territory of Wisconsin, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 6. The first session of the legislature of the State of Wisconsin shall commence on the first Monday in June next, and shall be held at the village of Madison, which shall be and remain the seat of government until otherwise provided by law.

SEC. 7. All county, precinct, and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall, in conformity with the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

SEC. 8. The president of this convention shall, immediately after its adjournment, cause a fair copy of this constitution, together with a copy of the act of the legislature of this territory, entitled "An act in relation to the formation of a State government in Wisconsin, and to change the time of holding the annual session of the legislature," approved October 27, 1847, providing for the calling of this convention, and also a copy of so much of

the last census of the territory as exhibits the number of its inhabitants, to be forwarded to the president of the United States, to be laid before the Congress of the United States at its present session.

SEC. 9. This constitution shall be submitted at an election to be held on the second Monday in March next, for ratification or rejection, to all white male persons of the age of twenty-one years or upwards, who shall then be residents of this territory and citizens of the United States, or shall have declared their intention to become such in conformity with the laws of Congress on the subject of naturalization; and all persons having such qualifications shall be entitled to vote for or against the adoption of this constitution, and for all officers first elected under it. And if the constitution be ratified by said electors, it shall become the constitution of the State of Wisconsin. On such of the ballots as are for the constitution, shall be written or printed the word, "yes;" and on such as are against the constitution, the word, "no." The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of the boards of supervisors or county commissioners (as the case may be) to the governor of the territory, at any time before the tenth of April next. And in the event of the ratification of this constitution, by a majority of all the votes given, it shall be the duty of the governor of this territory to make proclamation of the same, and to transmit a digest of the returns to the senate and assembly of the State, on the first day of their session. An election shall be held for governor and lieutenant governor, treasurer, attorney general, members of the State legislature, and members of Congress, on the second Monday of May next, and no other or further notice of such election shall be required.

SEC. 10. Two members of Congress shall also be elected on the second Monday of May next; and until otherwise provided by law, the counties of Milwaukee, Waukesha, Jefferson, Racine, Walworth, Rock and Green shall constitute the First congressional district, and elect one member; and the counties of Washington, Sheboygan, Manitowoc, Calumet, Brown, Winnebago, Fond du Lac, Marquette, Sauk, Portage, Columbia, Dodge, Dane, Iowa, LaFayette, Grant, Richland, Crawford, Chippewa, St. Croix and La Pointe shall constitute the Second congressional district, and shall elect one member.

SEC. 11. The several elections provided for in this article shall be conducted according to the existing laws of the territory. *Provided*, That no elector shall be entitled to vote, except in the town, ward or precinct where he resides. The returns of election, for senators and members of assembly, shall be transmitted to the clerk of the board of supervisors, or county commissioners, as the case may be, and the votes shall be canvassed, and certificates of election issued, as now provided by law. In the First senatorial district, the returns of the election for senator shall be made to the proper officer in the county of Brown; in the Second senatorial district, to the proper officer in the county of Columbia; in the Third senatorial district, to the proper officer in the county of Crawford; in the Fourth senatorial district, to the proper officer in the county of Fond du Lac; and in the Fifth senatorial district, to the proper officer in the county of Iowa. The returns of election for State officers and members of Congress shall be certified and transmitted to the speaker of the assembly, at the seat of government, in the same manner as the votes for delegate to Congress are required to be certified and returned, by the laws of the territory of Wisconsin, to the secretary of said territory, and in such time that they may be received on the first Monday in June next; and as soon as the legislature shall be organized, the speaker of the assembly and the president of the senate shall in the presence of both houses, examine the returns, and declare who are duly elected to fill the several offices hereinbefore mentioned, and give to each of the persons elected, a certificate of his election.

SEC. 12. Until there shall be a new apportionment, the senators and members of the assembly shall be apportioned among the several districts, as hereinafter mentioned, and each district shall be entitled to elect one senator or member of the assembly, as the case may be.

The counties of Brown, Calumet, Manitowoc and Sheboygan shall constitute the First senate district.

The counties of Columbia, Marquette, Portage and Sauk shall constitute the Second senate district.

The counties of Crawford, Chippewa, St. Croix and La Pointe shall constitute the Third Senate district.

The counties of Fond du Lac and Winnebago shall constitute the Fourth senate district.

The counties of Iowa and Richland shall constitute the Fifth senate district.

The county of Grant shall constitute the Sixth senate district.

The county of La Fayette shall constitute the Seventh senate district.

The county of Green shall constitute the Eighth senate district.

The county of Dane shall constitute the Ninth senate district.

The county of Dodge shall constitute the Tenth senate district.

The county of Washington shall constitute the Eleventh senate district.

The county of Jefferson shall constitute the Twelfth senate district.

The county of Waukesha shall constitute the Thirteenth senate district.

The county of Walworth shall constitute the Fourteenth senate district.

The county of Rock shall constitute the Fifteenth senate district.

The towns of Southport, Pike, Pleasant Prairie, Paris, Bristol, Brighton, Salem and Wheatland, in the county of Racine, shall constitute the Sixteenth senate district.

The towns of Racine, Caledonia, Mount Pleasant, Raymond, Norway, Rochester, Yorkville and Burlington, in the county of Racine, shall constitute the Seventeenth senate district.

The third, fourth and fifth wards of the city of Milwaukee, and the towns of Lake, Oak Creek, Franklin and Greenfield, in the county of Milwaukee, shall constitute the Eighteenth senate district.

The first and second wards of the city of Milwaukee, and the towns of Milwaukee, Wauwatosa and Granville, in the county of Milwaukee, shall constitute the Nineteenth senate district.

The county of Brown shall constitute an assembly district.

The county of Calumet shall constitute an assembly district.

The county of Manitowoc shall constitute an assembly district.

The county of Columbia shall constitute an assembly district.

The counties of Crawford and Chippewa shall constitute an assembly district.

The counties of St. Croix and La Pointe shall constitute an assembly district.

The towns of Windsor, Sun Prairie and Cottage Grove, in the county of Dane, shall constitute an assembly district.

The towns of Madison, Cross Plains, Clarkson, Springfield, Verona, Montrose, Oregon and Greenfield, in the county of Dane, shall constitute an assembly district.

The towns of Rome, Dunkirk, Christiana, Albion and Rutland, in the county of Dane, shall constitute an assembly district.

The towns of Burnett, Chester, Le Roy and Williamstown, in the county of Dodge, shall constitute an assembly district.

The towns of Fairfield, Hubbard and Rubicon, in the county of Dodge, shall constitute an assembly district.

The towns of Hustisford, Ashippun, Lebanon and Emmett, in the county of Dodge, shall constitute an assembly district.

The towns of Elba, Lowell, Portland and Clyman, in the county of Dodge, shall constitute an assembly district.

The towns of Calamus, Beaver Dam, Fox Lake and Trenton, in the county of Dodge, shall constitute an assembly district.

The towns of Calumet, Forest, Auburn, Byron, Taycheedah and Fond du Lac, in the county of Fond du Lac, shall constitute an assembly district.

The towns of Alto, Metomen, Ceresco, Rosendale, Waupun, Oakfield and Seven Mile Creek, in the county of Fond du Lac, shall constitute an assembly district.

The precincts of Hazel Green, Fairplay, Smelser's Grove and Jamestown, in the county of Grant, shall constitute an assembly district.

The precincts of Platteville, Head of Platte, Centreville, Muscoda and Fennimore, in the county of Grant, shall constitute an assembly district.

The precincts of Pleasant Valley, Potosi, Waterloo, Hurricane and New Lisbon, in the county of Grant, shall constitute an assembly district.

The precincts of Beetown, Patch Grove, Cassville, Millville and Lancaster, in the county of Grant, shall constitute an assembly district.

The county of Green shall constitute an assembly district.

The precincts of Dallas, Peddlers Creek, Mineral Point and Yellow Stone, in the county of Iowa, shall constitute an assembly district.

The precincts of Franklin, Dodgeville, Porter's Grove, Arena

and Percussion, in the county of Iowa and the county of Richland, shall constitute an assembly district.

The towns of Watertown, Aztalan and Waterloo, in the county of Jefferson, shall constitute an assembly district.

The towns of Ixonia, Concord, Sullivan, Hebron, Cold Spring and Palmyra, in the county of Jefferson, shall constitute an assembly district.

The towns of Lake Mills, Oakland, Koshkonong, Farmington and Jefferson, in the county of Jefferson, shall constitute an assembly district.

The precincts of Benton, Elk Grove, Belmont, Willow Springs, Prairie, and that part of Shullsburgh precinct north of town One, in the county of La Fayette, shall constitute an assembly district.

The precincts of Wiota, Wayne, Gratiot, White Oak Springs, Fever River, and that part of Shullsburgh precinct south of town Two, in the county of La Fayette, shall constitute an assembly district.

The county of Marquette shall constitute an assembly district.

The first ward of the city of Milwaukee shall constitute an assembly district.

The second ward of the city of Milwaukee shall constitute an assembly district.

The third ward of the city of Milwaukee shall constitute an assembly district.

The fourth and fifth wards of the city of Milwaukee shall constitute an assembly district.

The towns of Franklin and Oak Creek, in the county of Milwaukee, shall constitute an assembly district.

The towns of Greenfield and Lake, in the county of Milwaukee, shall constitute an assembly district.

The towns of Granville, Wauwatosa and Milwaukee, in the county of Milwaukee, shall constitute an assembly district.

The county of Portage shall constitute an assembly district.

The town of Racine, in the county of Racine, shall constitute an assembly district.

The towns of Norway, Raymond, Caledonia and Mount Pleasant, in the county of Racine, shall constitute an assembly district.

The towns of Rochester, Burlington and Yorkville, in the county of Racine, shall constitute an assembly district.

The towns of Southport, Pike and Pleasant Prairie, in the county of Racine, shall constitute an assembly district.

The towns of Paris, Bristol, Brighton, Salem and Wheatland, in the county of Racine, shall constitute an assembly district.

The towns of Janesville and Bradford, in the county of Rock, shall constitute an assembly district.

The towns of Beloit, Turtle and Clinton, in the county of Rock, shall constitute an assembly district.

The towns of Magnolia, Union, Porter and Fulton, in the county of Rock, shall constitute an assembly district.

The towns of Milton, Lima and Johnstown, in the county of Rock, shall constitute an assembly district.

The towns of Newark, Rock, Avon, Spring Valley and Center, in the county of Rock, shall constitute an assembly district. *Provided*, That if the legislature shall divide the town of Center, they may attach such part of it to the district lying next north as they deem expedient.

The county of Sauk shall constitute an assembly district.

Precincts numbered one, three and seven, in the county of Sheboygan, shall constitute an assembly district.

Precincts number two, four, five and six, in the county of Sheboygan, shall constitute an assembly district.

The towns of Troy, East Troy and Spring Prairie, in the county of Walworth, shall constitute an assembly district.

The towns of Whitewater, Richmond and La Grange, in the county of Walworth, shall constitute an assembly district.

The towns of Geneva, Hudson and Bloomfield, in the county of Walworth, shall constitute an assembly district.

The towns of Darien, Sharon, Walworth and Linn, in the county of Walworth, shall constitute an assembly district.

The towns of Delavan, Sugar Creek, La Fayette and Elkhorn, in the county of Walworth, shall constitute an assembly district.

The towns of Lisbon, Menomonee and Brookfield, in the county of Waukesha, shall constitute an assembly district.

The towns of Warren, Oconomowoc, Summit and Ottawa, in the county of Waukesha, shall constitute an assembly district.

The towns of Delafield, Genessee and Pewaukee, in the county of Waukesha, shall constitute an assembly district.

The towns of Waukesha and New Berlin, in the county of Waukesha, shall constitute an assembly district.

The towns of Eagle, Mukwonago, Vernon and Muskego, in the county of Waukesha, shall constitute an assembly district.

The towns of Port Washington, Fredonia and Clarence, in the county of Washington, shall constitute an assembly district.

The towns of Grafton and Jackson, in the county of Washington shall constitute an assembly district.

The towns of Mequon and Germantown, in the county of Washington, shall constitute an assembly district.

The towns of Polk, Richfield and Erin, in the county of Washington, shall constitute an assembly district.

The towns of Hartford, Addison, West Bend and North Bend, in the county of Washington, shall constitute an assembly district.

The county of Winnebago shall constitute an assembly district.

The foregoing districts are subject, however, so far to be altered that when any new town shall be organized, it may be added to either of the adjoining assembly districts.

SEC. 13. Such parts of the common law as are now in force in the territory of Wisconsin, not inconsistent with this constitution, shall be and continue part of the law of this State until altered or suspended by the legislature.

SEC. 14. The senators first elected in the even numbered senate districts, the governor, lieutenant governor, and other State officers first elected under this constitution, shall enter upon the duties of their respective offices on the first Monday of June next, and shall continue in office for one year from the first Monday of January next. The senators first elected in the odd numbered senate districts, and the members of the assembly first elected shall enter upon their duties respectively on the first Monday of June next, and shall continue in office until the first Monday in January next.

SEC. 15. The oath of office may be administered by any judge or justice of the peace, until the legislature shall otherwise direct.

RESOLUTIONS.

Resolved, That the Congress of the United States be, and is hereby requested, upon the application of Wisconsin for admission into the Union, so to alter the provisions of an act of Congress, entitled "An act to grant a quantity of land to the territory of Wisconsin, for the purpose of aiding in opening a canal to con-

nect the waters of Lake Michigan with those of Rock River," approved June eighteenth, eighteen hundred and thirty-eight, and so to alter the terms and conditions of the grant made therein, that the odd numbered sections thereby granted, and remaining unsold, may be held and disposed of by the State of Wisconsin, as a part of the five hundred thousand acres of land to which said State is entitled by the provisions of an act of Congress, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, eighteen hundred and forty-one; and further, that the even numbered sections reserved by Congress may be offered for sale by the United States for the same minimum price, and subject to the same rights of pre-emption as other public lands of the United States.

Resolved, That Congress be further requested to pass an act whereby the excess price over and above one dollar and twenty-five cents per acre, which may have been paid by the purchasers of said even numbered sections which shall have been sold by the United States, be refunded to the present owners thereof, or they be allowed to enter any of the public lands of the United States, to an amount equal in value to the excess so paid.

Resolved, That in case the odd numbered sections shall be ceded to the State as aforesaid, the same shall be sold by the State in the same manner as other school lands. *Provided*, That the same rights of pre-emption as are now granted by the laws of the United States shall be secured to persons who may be actually settled upon such lands at the time of the adoption of this constitution. *And provided further*, That the excess price over and above one dollar and twenty-five cents per acre, absolutely or conditionally contracted to be paid by the purchasers of any part of said sections which shall have been sold by the territory of Wisconsin, shall be remitted to such purchasers, their representatives or assigns.

Resolved, That Congress be requested, upon the application of Wisconsin for admission into the Union, to pass an act whereby the grant of five hundred thousand acres of land, to which the State of Wisconsin is entitled by the provisions of an act of Congress, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, eighteen hundred and forty-one, and

also the five *per centum* of the net proceeds of the public lands lying within the State, to which it shall become entitled on its admission into the Union, by the provisions of an act of Congress, entitled "An act to enable the people of Wisconsin territory to form a constitution and State government, and for the admission of such State into the Union," approved the sixth day of August, eighteen hundred and forty-six, shall be granted to the State of Wisconsin for the use of schools, instead of the purposes mentioned in said acts of Congress respectively.

Resolved, That the Congress of the United States be, and hereby is requested, upon the admission of this State into the Union, so to alter the provisions of the act of Congress, entitled "An act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the territory of Wisconsin," that the price of the lands reserved to the United States shall be reduced to the minimum price of the public lands.

Resolved, That the legislature of this State shall make provision by law for the sale of the lands granted to the State in aid of said improvements, subject to the same rights of pre-emption to the settlers thereon, as are now allowed by law to the settlers on the public lands.

Resolved, That the foregoing resolutions be appended to and signed with the constitution of Wisconsin, and submitted therewith to the people of this territory, and to the Congress of the United States.

We, the undersigned, members of the convention to form a constitution for the State of Wisconsin, to be submitted to the people thereof for their ratification or rejection, do hereby certify that the foregoing is the constitution adopted by the convention.

In testimony whereof we have hereunto set our hands, at Madison, the first day of February, A. D. eighteen hundred and forty-eight.

MORGAN L. MARTIN,

President of the Convention and Delegate from Brown County.

THOS. MCHUGH, *Secretary.*

[SIGNED ALSO BY THE SIXTY-FIVE OTHER DELEGATES.]



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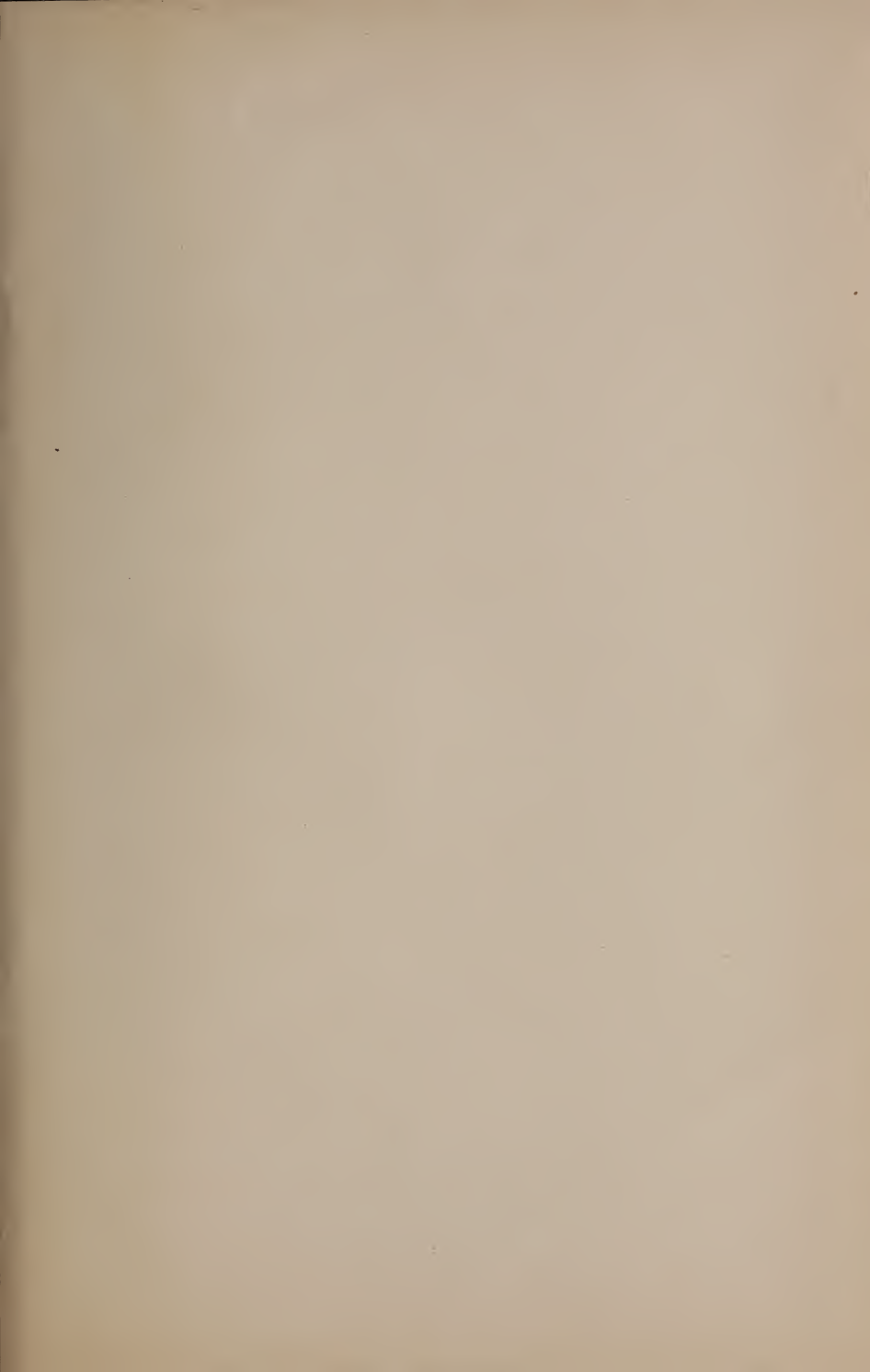
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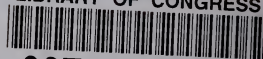
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